DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

PART 1—(Pages 1-1145)

Arms Control and Disarmament Agency
Board for International Broadcasting
Commission on Civil Rights
Commission on Security and Cooperation in Europe
Congressional witness
Department of Commerce
Department of Justice
Department of Transportation
Department of the Treasury
Equal Employment Opportunity Commission
Federal Communications Commission
International Communication Agency
Japan-United States Friendship Commission
Legal Services Corporation
Small Business Administration
U.S. Trade Representative

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DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

TUESDAY, MARCH 2, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:18 a.m., in room S-146, the Capitol, Hon. Lowell P. Weicker (chairman) presiding.

Present: Senators Weicker, Cochran, Rudman, and DeConcini.

DEPARTMENT OF JUSTICE

STATEMENT OF HON. WILLIAM FRENCH SMITH, ATTORNEY GENERAL

ACCOMPANIED BY:

KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION
CHARLES R. NEILL, CONTROLLER
JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF

BUDGET REQUEST

Senator WEICKER. The subcommittee will come to order.

This morning the subcommittee begins consideration of the 1983 estimates for the Departments of State, Justice, Commerce, the Judiciary, and related agencies funded by this bill. The estimates for fiscal year 1983 total $8,631,674,000, an increase of $72,692,000 over fiscal year 1982 appropriations enacted to date.

We will begin our hearing this morning with the request for the Department of Justice. The request is for $2,666,234,000 and 54,104 positions. In addition, we have a program supplemental request for $4 million. I understand that we are also expecting to receive some additional supplementals for pay and other expenses. The major changes from 1982 relate to decreases in the area of State and local assistance, the assumption of certain immigration responsibilities from the Department of Health and Human Services, and several proposed transfers from the Departments of Energy and Education.

Appearing on behalf of this request is Attorney General Smith, who is accompanied by Kevin D. Rooney, Assistant Attorney General for Administration; Charles R. Neill, Controller; and John R. Shaffer, Director, Budget Staff. I welcome these gentlemen to the committee.

PREPARED STATEMENT

The rest of my statement will be placed in the record at this point. [The statement follows:]

STATEMENT OF SENATOR LOWELL WEICKER, JR.

This morning the subcommittee begins consideration of the 1983 estimates for the Departments of State, Justice, Commerce, the Judiciary, and related agencies funded in this bill. The estimates for fiscal year 1983 total $8,623,974,000, an increase of $74,992,000 over fiscal year 1982 appropriations enacted to date.

We will begin our hearing this morning with the request for the Department of Justice. The request is for $2,666,234,000 and 54,104 positions. In addition, we have a program supplemental request for $4 million. I understand that we are also expecting to receive some additional supplementals for pay and other expenses. The major changes from 1982 relate to decreases in the area of State and local assistance, the assumption of certain immigration responsibilities from the Department of Health and Human Services, and several proposed transfers from the Departments of Energy and Education.

Appearing on behalf of this request is Attorney General Smith, who is accompanied by Kevin D. Rooney, Assistant Attorney General for Administration; Charles R. Neill, Controller; and John R. Shaffer, Director, Budget Staff.

Gentlemen, welcome. The Department of Justice possesses a noble history as the chief law enforcement arm of this Government. Together with the courts and the Congress, it has breathed life into the Constitution, and given meaning to abstract statutes and judicial opinions.

Since 1954, when the Supreme Court ruled in *Brown* v. *the Board of Education*, the enforcement of civil rights statutes has become one of the Justice Department's primary preoccupations. By exercising its authority to file suit in Federal court, it has helped secure equal protection for the rights of minorities, women, and other disadvantaged Americans. In education, employment, housing, voting and public facilities, equal opportunity has become the law of the land.

Unfortunately, in recent months, this longstanding collaboration among the three branches of Government to protect civil rights and liberties has come under attack. Some Members of Congress are attempting to concentrate authority in the legislative branch and deprive the courts and the Justice Department of their traditional roles.

Far from resisting this change, the Justice Department appears to approve of it. It has rejected the Supreme Court's definitive interpretation of the Constitution and neglected its responsibilities to enforce the law. It has switched sides in cases pending before the Supreme Court and announced its intention to seek the overturning of Supreme Court decisions of recent vintage.

The net result of these attitudes and actions is the narrowing of remedies available to those whose rights have been violated. We are, gentlemen, in danger of seeing the civil rights acts of Congress, [illegible] mention the Constitution, become dead letters. Many Members of Congress, myself [illegible]nong them, are very much disturbed by these developments. I feel it imperative that we discuss some of them with you today.

REMARKS BY SENATOR WEICKER

Senator WEICKER. Mr. Attorney General, I am not going to be able to attend the entire hearings. One of my colleagues will take over the Chair. The reason for my absence is what I would like to discuss with you for a few minutes, because I go from here to the floor of the U.S. Senate to wind up debate on what is commonly referred to as the Helms-Johnston bill.

CARTER DECISION TO VETO 1981 APPROPRIATION ACT

I would like to read to you a letter that was sent to my predecessor as chairman of this committee, specifically Senator Hollings. The letter received from the White House in December 1981, dated December 4.

Dear Mr. Chairman: I have decided that I will veto H.R. 7584, the State-Justice-Commerce Appropriations Act of 1980. A provision in this act, the Helms-Collins amendment, would impose an unprecedented prohibition on the ability of the President of the United States and the Attorney General to use the Federal courts to insure that our Constitution and laws are faithfully executed.

Throughout my administration, I have been committed to the enhancement and strong enforcement of our civil rights laws. Such laws are the backbone of our commitment to equal justice. I cannot allow a law to be enacted which so impairs the Government's ability to enforce our Constitution and civil rights acts.

I have often stated my belief that busing should only be used as a last resort in school desegregation cases. But busing is not the real issue here. The real issue is whether it is proper for the Congress to prevent the President from carrying out his constitutional responsibility to enforce the Constitution and laws of the United States.

The precedent that would be established if this legislation became law is dangerous. It would effectively allow the Congress to tell a President that there are certain constitutional remedies that he cannot ask the courts to apply. If a President can be barred from going to the courts on this issue, a future Congress could by the same reasoning prevent a President from asking the courts to rule on the constitutionality of other matters upon which the President and the Congress disagree.

For any President to accept this precedent would permit a serious encroachment on the powers of this office. I have a responsibility to my successors and to the American people not to permit that encroachment to take place. I intend to discharge that responsibility to the best of my ability.

The purpose of this letter is to insure that there is no doubt about my opposition to the objectionable provision in the State-Justice-Commerce Appropriations Act. My opposition also applies to the inclusion of such a provision in the continuing resolution.

I would of course prefer to avoid a veto of the resolution. I recognize the difficulties such a veto could impose on critically important operations of the Government and on the congressional schedule. But I would be shirking my constitutional responsibilities if I allowed this unprecedented and unwarranted encroachment on Executive authority and responsibility to prevail.

Sincerely,

JIMMY CARTER.

HELMS-JOHNSTON LIMITATION ON EXECUTIVE AUTHORITY

General, that amendment, which is referred to as the Helms-Collins amendment was reenacted in the Justice Department authorization bill and was passed as the Helms amendment, which subsequently was amended to become the Johnston-Helms amendment. I just want to discuss for a minute that, which in my opinion, and I think in the opinion of most others, is without question within your responsibility as the chief law enforcement officer of this Nation, and more particularly the President's attorney, the attorney for the executive branch of Government.

I am not going to discuss the constitutional aspects of it which encroach on the power of courts. I don't want to get into a discussion of busing as a matter of policy—but, merely a constitutional issue as to whether or not the Congress of the United States can properly limit the authority of the Executive.

I must confess to you that I hoped in a year's time—it has been just about that since we discussed this issue—that I would not be alone arguing for your most particular client, the President of the United States, but also for all the American people in the sense of their rights under the Constitution. However, I have been alone on this issue. You should be up there fighting for your branch of Government, not me. It is mine that stands to gain. The Constitution stands to lose.

Now, in a few hours, that measure will clear the U.S. Senate. I suspect that there is a good chance it might be carried in the House, but I have never counted on those things. It seems to me it is the very unwillingness of the U.S. Senate not to face up to tough issues but to defer them either to its sister body or to allow the President of the United States to pick up the ball, or hopefully, the courts of the United States, which have been responsible for the predicament in which we find ourselves today.

I would hope that it would die in the House. By the same token, if it comes back from the House, I suspect we are going to have another long session on that legislation in the Senate—so long as not to become law before the end of this particular Congress.

I want to pose to you the very same question that confronted President Reagan's predecessor. In my view, when Carter wrote the letter and stated in it: "I have a responsibility to my successors," his successor was already chosen, Ronald Reagan. So indeed he acted to preserve the powers of the office.

QUESTION REGARDING LEGISLATIVE ENCROACHMENT

My question to you, so that we don't engage in a hypothetical, is assuming that this bill clears the House, a conference report is approved by both the House and the Senate, and the matter comes to the President for signature, I want to know, what your advice to the President would be on the narrow issue of legislative encroachment on the Executive.

I imagine the former Attorney General obviously advised his client as to the constitutional implications of that law.

Mr. SMITH. As a matter of fact, Mr. Chairman, at such time as that happens, I will advise him on the basis of the facts as they then exist. As you know, I don't know what those facts will be. As you have indicated, it is a matter that has to go through the House and it has to come back to conference. Who knows what will happen through that process? And at such time as I am called upon to advise the President, I will do so on the basis——

Senator WEICKER. All right. Why don't you advise me?

Mr. SMITH [continuing]. On the basis of what facts?

Senator WEICKER. Right now, just on the narrow issue. Right now.

Mr. SMITH. I can't do it.

Senator WEICKER. Why not?

Mr. SMITH. I think it would be highly inappropriate for me to do that.

LEGISLATIVE ENCROACHMENT ON EXECUTIVE AUTHORITY

Senator WEICKER. You cannot indicate before this committee, the Appropriations Committee, dealing with the appropriations of the Justice Department, what your opinion is on the very narrow issue as to whether or not the legislative branch of Government has made an encroachment on the executive branch?

Mr. SMITH. Certainly not.

Senator WEICKER. Why not?

Mr. SMITH. Because you are talking in terms of——

Senator WEICKER. I am not talking about a hypothetical. This is a matter before the U.S. Senate.

Mr. SMITH. Indeed you are. You are talking in terms of hypothetical conditions on the basis of your own statement.

Senator WEICKER. I am not. I am asking you to address yourself to the legislation which is now on the floor of the U.S. Senate, only as it applies to the constitutional issue impacting on the executive branch of Government, nothing more.

Mr. SMITH. Well, as a matter of fact, that is not what I would be called upon to advise the President on. It may or it may not be.

BASIS FOR ATTORNEY GENERAL ADVISING PRESIDENT

Senator WEICKER. You would not be called upon to advise him on the constitutional aspects of encroachment on the powers of his office?

Mr. SMITH. If that passes the Congress, indeed I would be. But as you have indicated, there is a lot——

Senator WEICKER. I am asking you now, right now, Mr. Attorney General, as I asked you a year ago, to have the voice heard of the most important law enforcement official in this Nation on the constitutional aspects of this legislation as it impacts on your office. Not any other office; yours, the Justice Department.

Mr. SMITH. Well, as a matter of fact, once again you are asking me to give a legal opinion on a hypothetical state of facts which you, yourself, have indicated are not fixed, and will not be, and will not be presented to the President until a good many——

Senator WEICKER. Mr. Attorney General, every day you comment on legislation that comes to the floor of the U.S. Senate, whether it is drug enforcement, whether it is the FBI, and you are here on an appropriations matter.

Mr. Attorney General, I don't think this is any more unusual, and I think the time has come to stop waltzing around a very basic issue. Not for the President. If that means nothing to you, I think the American people——

Mr. SMITH. Let me say I am not waltzing around, Mr. Chairman.

Senator WEICKER. I think the American people have a right to know——

Mr. SMITH. As a matter of fact, you have——

Senator WEICKER [continuing]. The opinion of the Attorney General on that legislation.

Mr. SMITH. You have every right to state your position and I have every right to state mine.

Senator WEICKER. Which is no position.

Mr. SMITH. It is not no position.

Senator WEICKER. Let me hear your position.

Mr. SMITH. The mere fact that my position does not happen to coincide with yours——

Senator WEICKER. Oh, no. I did not——

Mr. SMITH [continuing]. Or may not coincide with yours——

Senator WEICKER. I don't know.

Mr. SMITH. I don't know that either.

Senator WEICKER. Why are you saying that is a reason for your not commenting?

Mr. SMITH. You seem to be saying here if I don't happen to agree with you, I am derelict in my duties.

Senator WEICKER. No; absolutely not.

Mr. SMITH. That is what you are saying.

CONSTITUTIONALITY OF HELMS AMENDMENT

Senator WEICKER. I am not saying that. We are both in a profession where we are supposed to be precise. I am asking your opinion as to the constitutionality of the Helms amendment presently before the U.S. Senate.

Mr. SMITH. Can you expect me, without having any prior notice of your intention to even ask that question, to give you orally across this table an opinion on the constitutionality of any statute?

Senator WEICKER. I certainly do. Mr. Attorney General——

Mr. SMITH. As a matter of fact, this is the first time that I have heard that question coming from you.

Senator WEICKER. No; Mr. Attorney General.

Mr. SMITH. You are asking me to answer a hypothetical question; a very complicated question, I might add.

Senator WEICKER. Why complicated?

Mr. SMITH. Highly complicated. Anybody who has looked into this area at all knows that it is a highly complicated area.

Senator WEICKER. I am not talking about court jurisdiction. I am talking about the Justice Department. I am not talking about busing.

Mr. SMITH. I am talking about the factual situation and the law as applied to those facts. This is the first time that you have raised this question, and you expect me to answer it.

Senator WEICKER. I have raised this question—this question has been in the forefront of the debate on the Senate floor for 10 months, and it is your Department to which it is addressed. It also addresses itself to the judiciary, but I am not asking for a response on that. Just how it impacts on your Department.

Mr. SMITH. It is a little hard for me to know exactly what you are asking for.

Senator WEICKER. Then let me be precise. I want your statement as to the constitutionality of the Helms amendment insofar as it impacts upon the Justice Department, the executive branch of this Government.

Mr. SMITH. Do I understand that you are asking me a question across the table——

Senator WEICKER. Yes, I am.

Mr. SMITH [continuing]. Orally——

Senator WEICKER. Yes.

Mr. SMITH [continuing]. Without any prior notice whatever——

Senator WEICKER. You have had no prior notice of this?

Mr. SMITH [continuing]. That you wanted an answer to this question——

Senator WEICKER. You have had notice. I am not asking you a——

Mr. SMITH. Let me finish.

Senator WEICKER. Please respond.

Mr. SMITH. May I finish on the basis of a set of facts which are purely hypothetical at this point, as I understand it, in accordance with your own statement? You are raising very complicated questions of law, a hypothetical state of facts, and you want me to give you an answer yes or no if it is constitutional or not constitutional without anything further?

Senator WEICKER. No; I want you to explain your position.

Mr. SMITH. Obviously that is impossible. I really think it is an inappropriate question under the circumstances. As a matter of fact, I am not even sure I know what amendment you——

1981 APPROPRIATION HEARINGS

Senator WEICKER. Oh, nonsense. This is—what was the date of these hearings?

Ms. Ingram. March 17, I believe, Mr. Chairman.

Senator WEICKER. Let's make sure. I want to make sure we don't in any way—March 17, 1981.

Mr. SMITH. That is a year ago.

Senator WEICKER. That is right, Mr. Attorney General. I said, "Mr. Attorney General, I would first of all like to find out whether you deem such an amendment 'an unconstitutional encroachment by Congress into the executive and judicial branches'?" Attorney General Smith says, "That is a very complicated question. As a matter of fact, I have to say, as of right now, I have not come to a conclusion on that subject. We are studying it. It has been studied in the past. There are differences of opinion on the question."[1]

Mr. SMITH. All right. Now, what amendment are we talking about?

Senator WEICKER. We are talking about the school busing amendment.

Mr. SMITH. All right. Now, what amendment? That is a vastly different thing from the subject you are asking me about.

Senator WEICKER. It is the exact same amendment. I am talking about the exact same amendment.

Mr. SMITH. Mr. Chairman, what is the question? You have talked about an amendment, you have talked about this action and that action, hypothetical action. What is the amendment you are talking about?

[1] Senate hearings, Committee on Appropriations, State, Justice, Commerce, the Judiciary, and Related Agencies Appropriations, Fiscal Year 1982, 97th Congress, first session; p. 393.

HELMS AMENDMENT

Senator WEICKER. "No part of any sum authorized to be appropriated by this act shall be used by the Department of Justice to bring or maintain any sort of action to require, directly or indirectly, the transportation of any student to a school, other than a school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped."

Mr. SMITH. Is that what you are referring to?

Senator WEICKER. That is what was referred to then and that is what is being referred to now.

Mr. SMITH. I would have to check that. I doubt it. I doubt very much if that is the same amendment you were referring to in March 1981. As a matter of fact, my recollection is that they are quite different amendments.

Senator WEICKER. They are not quite different. I have lived with this matter for 10 months, while you have been sitting over there not protecting either the interests of your principal client, but also 250 million Americans.

Mr. SMITH. Well, that is your opinion.

Senator WEICKER. That is my opinion.

Mr. SMITH. But one which I happen to disagree with.

Senator WEICKER. But to have you come here, notified in 1981, and come in 1982 and say you have no idea, you haven't had any chance to appear on the subject——

Mr. SMITH. That is not what I am saying at all.

Senator WEICKER. Do you want the record read back?

Mr. SMITH. That is not what I am saying.

Senator WEICKER. You have no opinion.

Mr. SMITH. You are asking me questions about constitutionality without being definite, specific as to what you are talking about. You want me to give you apparently an opinion in a vacuum.

Senator WEICKER. I want your opinion on exactly what I have stated.

Mr. SMITH. I totally fail to understand what the thrust of this inquiry is about.

Senator WEICKER. The thrust of this inquiry is to find out what it is the Justice Department is doing so that we know whether or not to finance the Justice Department.

Mr. SMITH. As a matter of fact, if you want to ask what the Justice Department is doing, I will be very happy to tell you. That is quite a different thing to give you an ad hoc opinion on constitutionality about something you have not been specific about at all.

HISTORY OF THE HELMS AMENDMENT

Senator WEICKER. Mr. Attorney General, and I now read from March 1981:

In the last Congress an amendment was added to H.R. 7584, the State, Justice, Commerce fiscal year 1981 appropriations bill—your friend over there will tell you that is the difficulty. These matters of substance, not just spending, are coming into the appropriations process increasingly, so I would say, over the last decade really. Vietnam

started it all off, I guess, where matters of substance get tacked onto the appropriations bills. That is why we are no longer removed from what normally was entirely within the purview of an authorizing committee.

In the last Congress an amendment was added to H.R. 7584, the State, Justice, Commerce fiscal 1981 appropriations bill, to bar the Justice Department from bringing any legal action to require, either directly on indirectly, school busing for desegregation. President Carter vetoed H.R. 7584 because of this amendment. Subsequently, H.R. 7584 was attached to the continuing resolution and the antibusing language was deleted by the Senate.

I might add, a Weicker amendment, which stated that notwithstanding any of the aforementioned language, that the Justice Department shall enforce the Constitution of the United States, was also defeated.

Mr. Attorney General, I would first of all like to find out whether you deem such an amendment "an unconstitutional encroachment by Congress into the executive and judicial branches"?[2]

NATURE OF UNCONSTITUTIONAL ENCROACHMENT

There I even was broader. I included the judicial branch, which indeed Helms-Johnston does include. I am merely asking you here today whether or not this is an unconstitutional encroachment into the executive branch.

Mr. SMITH. What is an unconstitutional encroachment?

Senator WEICKER. The language I just got through reading to you, Mr. Attorney General. If you are not prepared to answer now, I am perfectly willing to accept your statement that you have not had a chance to study the subject.

Mr. SMITH. I haven't said that.

Senator WEICKER. You have studied the subject. Then certainly you must have some advice you can give to this committee relative to this particular piece of legislation, as indeed you advise this committee on other pieces of legislation.

Mr. SMITH. Indeed so. But I don't do it in a vacuum.

Senator WEICKER. Where is the vacuum? There is no vacuum. This has been 10 months on the floor of the U.S. Senate.

Mr. SMITH. You referred to an amendment you mentioned back in March 1981, which is quite a different amendment from the one you are talking about here.

Senator WEICKER. They are not different.

Mr. SMITH. It is very difficult for me to know what the question is.

Senator WEICKER. I think—look, there is no point in going around this. I think you are well aware as to the answer I seek, whether it agrees or disagrees.

Mr. SMITH. I have to say I do not.

Senator WEICKER. I could care less whether you disagree with me. Obviously I care for the cause for which I fight, but that is your privilege. But, I think everybody has the right to know the position of the Attorney General on this matter.

Mr. SMITH. Whatever this matter is.

Senator WEICKER. Whether it agrees or disagrees with mine.

Mr. SMITH. Whatever the matter is.

[2] Ibid.

Senator WEICKER. The matter is——
Mr. SMITH. You, yourself, have said this is a particular——
Senator WEICKER. Where is the bill?

RESTRICTION OF QUESTION TO CONSTITUTIONAL ISSUE

The matter is that portion of the legislation on the floor of the U.S. Senate which is S. 951 which states that:

No part of any sum authorized to be appropriated by this act shall be used by the Department of Justice to bring or maintain any sort of action to require, directly or indirectly, transportation of any student to a school other than a school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

REQUEST FOR OPINION ON CONSTITUIONAL ENCROACHMENT

I am asking you to address yourself to that particular portion of S. 951 and to advise this committee as to whether or not it is your opinion that that either is or is not an encroachment by the legislative branch of Government on the powers of the Executive.

Mr. SMITH. Well, I can say this much with respect to that aspect. I think that probably it is not the most desirable vehicle; that is, an appropriations bill is not the most desirable vehicle to——

Senator WEICKER. This is an authorization bill we have up here now.

Mr. SMITH. Well, authorization.—is not the most entirely appropriate vehicle to handle that type of subject matter.

I also have some question about the desirability, if I understand what you have just read correctly, of applying that kind of an approach retroactively.

Now, insofar as the question of constitutionality is concerned, that depends upon a host of different factors, including legislative history, how that ultimately, if it ever does, comes out of the Congress as a whole. It depends upon how it applies to a specific set of facts in a given situation.

You just cannot answer that question is it constitutional or isn't it constitutional. I certainly wouldn't purport to do that without knowing the entire legislative history, without knowing how it would apply to a given set of facts, and other aspects that would have to develop prior to the time that a decision would be made. I think any lawyer would certainly subscribe to that.

I have reservations which I mentioned, but that amendment has a long way to go and a lot of legislative history to be made before it reaches the President's desk, if in fact it ever does.

Senator WEICKER. There will be no thanks to the Department of Justice or the President if it ever does, Mr. Attorney General. Yet this is a matter that acts to the detriment of the President and the executive branch of Government, in a broader sense on the American people, and specifically on your Department. I am not picking out the Agriculture Department. Your Department.

Mr. SMITH. I don't see how that changes my answer one bit.

Senator WEICKER. I don't think it changes your answer. I think if someone came running to me I would sure be ready to talk about it and——

Mr. SMITH. Not until you found out the facts.

Senator WEICKER. You have had a whole year, Mr. Attorney General.

Mr. SMITH. On the contrary. You keep saying that. But the amendment you referred to in 1982 is quite different from the one you talked about in 1981.

Senator WEICKER. It is identical to the one here.

Mr. SMITH. I disagree.

Senator WEICKER. You are wrong on that point.

Mr. SMITH. I will concede you agree that I am wrong.

Senator WEICKER. The factual statement of this matter being before the Senate at the same time I met with you last year, there is no reason to dispute that. It was then——

Mr. SMITH. Then I must say——

Senator WEICKER [continuing]. And ever since then.

Mr. SMITH. I must say the constitutional considerations that apply to what I think the amendments were that you were talking about last March are quite different from the resolution that you are talking about now.

ADDITIONAL CONSTITUTIONAL QUESTIONS

Senator WEICKER. Mr. Attorney General, there are additional constitutional considerations, and for that reason I have not asked your opinion of those additional constitutional considerations. There is also a run at the judicial branch of Government. Even though that was mentioned at that time, I am not asking for your opinion on that. I would hope some day you might speak on that issue also, since it is clear the principles involved here are quite the same. But be that as it may, I am not asking for your comment on that.

Mr. SMITH. Of course, I don't think they are. I think they are quite different.

QUESTION OF SAME ISSUE LAST YEAR

Senator WEICKER. I am not asking for your opinion on busing. I am not asking your opinion on how it violates the Constitution so far as the judicial branch is concerned. I have restricted it in the narrowest sense to its effect on your Department and your branch of Government.

The fact is this is not something that somebody is now dreaming up in some hole here in the Capitol, ready to pop it on the U.S. Senate. It has been on the floor of the U.S. Senate for almost a year. And for almost a year there has been this great silence from down the line. I am talking about the executive branch.

I have said many times publicly on the floor of the U.S. Senate in the speeches I have made, Ronald Reagan should have been right there beside me arguing what is his side, his case, not my case, although I do have that responsibility on the floor of the Senate. Certainly I consider

these subcommittee hearings to be the appropriate forum to once again repeat the question that was asked a year ago, the question that has been all over the news media.

There can be no question about one thing. You are a highly erudite man, well versed in the law and certainly well up on your current events. Put all of that together, and for you to be dodging around here and saying, "This is all new to me," just doesn't wash.

Mr. SMITH. Now, Mr. Chairman, that is not what I am saying. As a matter of fact, the question you asked a year ago is not the question you are asking now. I want to——

Senator WEICKER. Mr. Attorney General, will you respond to it?

Mr. SMITH. Can I finish my answer? I want to make sure you understand what my answer is, and that is that with respect to this particular resolution, which is pending before the Senate, we cannot at this point give an answer as to whether it is "constitutional" or not until such time as we know what the complete legislative history of that resolution is, until we know how it comes out of the Congress, in what form, if in fact it does, and until it really is a point where we are called upon to advise the President.

Now I have said that, to me, it is a very clear answer. I think that any lawyer with any intellectual honesty would have to give you the same answer. I have said that with respect to this particular resolution, that I don't think that this is an appropriate vehicle to enact that kind of legislation.

Senator WEICKER. That is not at issue.

Mr. SMITH. I also raise the question about its retroactive effect, referring to busing. But the idea of me as the chief law enforcement officer giving you an answer on the constitutional question, without having all of that background and having a hypothetical set of facts, but not an actual set of facts, just simply cannot be done. I don't think any good lawyer would ever do it.

Senator WEICKER. Is there a bill on the Senate floor right now?

Mr. SMITH. Yes, as I understand it.

Senator WEICKER. With the provision I have just read to you here?

Mr. SMITH. Yes.

Senator WEICKER. And that has been the provision for months.

Mr. SMITH. Yes.

Senator WEICKER. Do you know that this letter which I read to you was a threatened veto? The matter had not yet come to Carter's desk. It was a threatened veto.

Mr. SMITH. I can't comment on what the procedures may have been with a prior administration.

Senator WEICKER. Obviously, any time is an appropriate time for someone to comment on the actions of the Senate of the United States. I read comments all the time about the Senate of the United States.

Mr. SMITH. Good heavens, yes. People comment about actions of the U.S. Senate all the time. If I were a private citizen, I would be happy to comment, too. But that is not my responsibility.

Senator WEICKER. No; your responsibility is to help the President see the laws faithfully executed.

Mr. SMITH. Exactly.

JUSTICE SILENCE DURING SENATE DEBATE

Senator WEICKER. Here we have a direct hard run at the Constitution and we hear nothing but silence.

Mr. SMITH. I don't know what you mean by hard run on the Constitution.

Senator WEICKER. You are not a judge. You don't think there is any constitutional——

Mr. SMITH. All you are saying is there is a resolution on the——

Senator WEICKER. Do you think there is a constitutional implication to what we are doing on the floor of the U.S. Senate?

Mr. SMITH. Possibly.

Senator WEICKER. That is sad. That is the only way I can sum it up. It is sad.

Mr. SMITH. You say sad. But I really find it a little surprising——

Senator WEICKER [continuing]. That somebody asked you a question about something that happens to affect your Department, and is the business of the U.S. Senate, and has been for 10 months? You find that surprising?

Mr. SMITH. I find it quite surprising that you would ask it as a lawyer in the form you have asked it and——

Senator WEICKER. I have tried to be specific and narrow.

Mr. SMITH [continuing]. Expecting an answer from me without my knowing all of the facts and all of the background and all the legislation.

Senator WEICKER. Mr. Attorney General, you know all the facts and you also, which is the unfortunate situation here, know all the politics. That is the problem.

Mr. SMITH. Well, as a matter of fact, if you are trying to say that what we do in terms of rendering legal judgments is based upon politics——

Senator WEICKER. I do.

Mr. SMITH [continuing]. Then I resent that, and that is a totally false statement.

Senator WEICKER. It is not a false statement.

Mr. SMITH. It is a totally false statement as far as I am concerned.

Senator WEICKER. To me the constitutional implications of what is on the floor of the U.S. Senate deserved a comment, a response, a statement by you——

Mr. SMITH. That is your opinion.

Senator WEICKER [continuing]. A long time ago, and there has been none.

Mr. SMITH. I have given you the reasons why we have not done that.

REASONS FOR SILENCE BY DEPARTMENT

Senator WEICKER. What are the reasons you have not done that?

Mr. SMITH. Well, do I have to repeat them?

Senator WEICKER. That you don't know the facts.

Mr. SMITH. Do I have to repeat them?

Senator WEICKER. Yes; I would like to hear them again.

Mr. SMITH. I have said we cannot render, with respect to a resolution of this kind, an opinion as to its constitutionality or lack of constitutionality until we know what the entire legislative history of that legislation, if it ultimately turns out to be, is, what has happened in the House, what happens in conference, how it in fact, if it ever does, lands on the President's desk. And no lawyer worth his salt would purport to render an opinion like that until he had all of those facts in front of him.

In my opinion, it has nothing to do with politics; it has nothing to do with anything but good, solid lawyering.

Senator WEICKER. Good, solid lawyering, in my book means keeping your client out of trouble, not waiting to get him out of it when he is in trouble.

Mr. SMITH. That is in your book.

Senator WEICKER. In the book of any lawyer.

Mr. SMITH. All right. Obviously we have a disagreement.

Senator WEICKER. You are just going to bail the client out when he gets into trouble, Mr. Attorney General?

Mr. SMITH. I don't think we are being very productive here.

Senator WEICKER. I think we are being very productive in the sense that the major issue confronting your Department—I don't think anything is greater than a constitutional issue when it is posed, and it has been posed——

Mr. SMITH. That is right; when it is posed, and it has not been posed.

Senator WEICKER. What do you think we are voting on up here, George Washington's Farewell Address?

Mr. SMITH. Who knows what you are voting on?

OTHER ADVICE ON HELMS-JOHNSTON AMENDMENT

Senator WEICKER. I will tell you who knows. That is the whole problem, Mr. Attorney General. Nobody does know what we are voting on. There has been guidance from the American Bar Association. When you talk to me about lawyering—lawyers, the whole American Bar Association, its house of delegates, its president, have spoken clearly on the issue.

Mr. SMITH. What issue are you talking about? What issue are you talking about? Are you talking about——

Senator WEICKER. I will conduct these hearings.

Mr. SMITH. Are you talking about this resolution?

Senator WEICKER. Yes, I am.

Mr. SMITH. You are talking about this specific resolution?

Senator WEICKER. I certainly am.

Mr. SMITH. All right.

Senator WEICKER. No. 2, the Society of State Supreme Court Justices has spoken, addressed this bill and the unconstitutional assault on both the executive and the judicial branch. I mean, I could understand if this was just somebody's crazy idea out here and I was opposed on philosophical matters. This is something that we could debate. I think it is the most important issue to confront you as the Attorney General, as the head of the Justice Department.

Mr. SMITH. Now as I understand it, you are not now addressing the question—I understand you specifically excluded the question of the jurisdiction of the Supreme Court.

Senator WEICKER. That is right.

Mr. SMITH. You are talking about this resolution?

Senator WEICKER. That is correct.

SPENDING LIMITATION IN HELMS AMENDMENT

Mr. SMITH. Which is a resolution which in effect goes to remedies?

Senator WEICKER. This resolution goes to the powers of the Justice Department, period.

Mr. SMITH. To spend money with respect to remedies that the Federal District Courts can render?

Senator WEICKER. That is right.

Mr. SMITH. Well, I have stated my position, which I think any lawyer would have to take under the circumstances.

Senator WEICKER. As far as I am concerned, you have stated the position of no position, and I suppose that is fair enough, in the sense that no direction is given on matters of importance to either the Senate or the American people when it comes to the Constitution of the United States.

It is disappointing from the Attorney General.

Mr. SMITH. I just wonder whether or not you have looked into this question.

Senator WEICKER. Have I looked at it? Mr. Attorney General, while you have been sitting on your you know what——

Mr. SMITH. If you listen——

LEGISLATIVE FIGHT TO PRESERVE EXECUTIVE AUTHORITY

Senator WEICKER [continuing]. I have been up on the floor for 10 months fighting your battle.

Mr. SMITH. As a Senator.

Senator WEICKER. It is your battle.

Mr. SMITH. I wonder if you have looked at this question from the standpoint of the Attorney General and what he has to look at. What you are looking at is from the standpoint of a Senator, quite appropriately. But that is a different thing from looking at it as the Attorney General of the United States who cannot and should not and will not issue answers on constitutionality without having a whole record in front of him before he does it.

Senator WEICKER. I just read you a letter from another President. Obviously we were relying on his Attorney General. We didn't have to wait, in other words, until Congress does its unconstitutional act before we heard from him. Feel free to speak. Don't be afraid. Jesse Helms, Strom Thurmond, and Bennett Johnston, they cannot go ahead and kick you out of office.

Mr. SMITH. I have not been too reticent about expressing opinions when it is appropriate to do so.

Senator WEICKER. Only because I have tried to again restrict my comments to what to me is a very clear-cut issue do I make further comment on your last statement. That brings up the whole issue of civil rights and the position of this administration and the Justice Department.

Mr. SMITH. I will be most happy to answer any questions along that line, Mr. Chairman.

Senator WEICKER. There are a lot of those questions coming up. You don't have to worry about that.

Mr. SMITH. That is one area where we do have——

Senator WEICKER. It is my intention to submit to you the bill we now have before us, when it passes the U.S. Senate, which will be in a few hours, and then I will ask for your comments as to the legislation passed by the U.S. Senate insofar as its effect on the executive branch.

Mr. SMITH. We will be glad to respond to any communication we get.

LEVEL OF CIVIL RIGHTS ACTIVITY

Senator WEICKER. I would want to have a response to that at the earliest possible time.

In a report issued just last week, the Leadership Conference on Civil Rights has condemned the record of your Department on every conceivable civil rights issue from enforcement of the equal protection clause in school matters and employment to voting. The Department is accused of meddling in contract compliance matters—long in the jurisdiction of the Department of Labor—and on Federal equal employment issues under the jurisdiction of the EEOC. The most severe criticism, however, is that rather than actively foster, protect, and enforce civil rights, "the Justice Department has become the focus of efforts in the Reagan administration to narrow and weaken civil rights protections."

I would like to have your response, and I am trying to give you as broad as possible a question to respond to, as to exactly what the Department of Justice has accomplished in the last year and exactly how you are promoting the civil rights of individuals.

Mr. SMITH. Let me start out by saying that that report is replete with inaccuracies, misstatements of fact, and false conclusions. This administration has been committed from the beginning to the vigorous enforcement of the civil rights statutes. That is exactly what it is doing.

I must say that I find it very distressing that those who hold themselves out to be the champions of the civil rights are the very first ones, it seems, to jump in to exploit for political purposes racism as an issue. Even though any form of intellectual honesty would indicate that in

particular cases involved, namely the *Bob Jones* case, even in the voting rights case, racism was never an issue in any sense or in any form, those cases have been converted into an attack on the civil rights efforts of the Department of Justice in ways which are just totally wrong and totally false.

If you will notice in the document that you are referring to, the reference is always made in general terms, never made in specifics. In those cases where there have been specifics, the facts usually have been just totally wrong. All I can say is that this administration is committed to the enforcement of the civil rights statutes and it is doing exactly that. Actually, in terms of bringing criminal actions for violations of the civil rights statutes, we have brought probably more actions than any previous administration. We have been very active in the areas of employment discrimination, the Voting Rights Act, even the Institutionalized Persons Act. So these charges are just totally false. There isn't really much more that can be said about that.

ACCURACY OF CHARGES CHALLENGED

Senator WEICKER. In other words, what you are saying, that these charges are totally false, then you are saying Mr. Benjamin Hooks, and the committee of lawyers headed by William Taylor, chairman of the Conference's Committee on Enforcement and Compliance, and others that took part in the report—Michael Sussman, National Association for the Advancement of Colored People; Janet Kohn, AFL–CIO; John Shattuck and David Landau, American Civil Liberties Union; Donna Lenhoff, Women's Legal Defense Fund; Lani Guinier and Elaine Jones, NAACP Legal Defense and Educational Fund; Arlene Mayerson; Disability Rights and Education Fund; Phyllis Segal, NOW Legal Defense and Education Fund; Marcia Greenberger, National Women's Law Center; Ralph Neas, director of the Leadership Conference; and Lea Adams of the Center for National Policy Review—are all liars?

Mr. SMITH. That is not what I said.

Senator WEICKER. If you say the report is totally false, what does that say about the people who wrote the report?

Mr. SMITH. I am saying that report is replete with inaccuracies.

Senator WEICKER. Do you want the record read back to you? What does that say about the people who wrote that report?

Mr. SMITH. Now do you want to listen to what I am saying? I am saying that that report——

TRANSCRIPT REPORTED TO COMMITTEE

Senator WEICKER. Read it back.

[The record was read by the reporter.]

Senator WEICKER. There you are. The charge is: "it is totally false." That implies something about the people who wrote the report. And totally untrue.

Mr. SMITH. Mr. Chairman, you can come to any conclusion you want. I stand on that statement. As a matter of fact, that report is loaded with inaccuracies——

Senator WEICKER. What does that say about the people who wrote it?

Mr. SMITH. They came to false conclusions.

Senator WEICKER. What does that say about the people who wrote it?

Mr. SMITH. Well, you can draw your own conclusions. I am commenting about the report. I am not talking about the individuals. I don't know whether any of the individuals you mentioned had any connection with any specific statement in there or not. I don't know.

Senator WEICKER. I am telling you who wrote the report.

Mr. SMITH. Well, whoever wrote that. I am just saying that report is just loaded with inaccuracies and false conclusions.

Senator WEICKER. There is no possibility, in other words, that the difficulty doesn't lie in the Justice Department.

Mr. SMITH. Would you come up with specifics, please?

Senator WEICKER. We are in the process of conducting a hearing, Mr. Attorney General. I will be glad to go through all of the questions.

Mr. SMITH. That is fine; because all of these have been very general, broad charges.

Senator WEICKER. I have not been—what charges are you talking about?

Mr. SMITH. The charges that—propaganda, in fact.

Senator WEICKER. What charges are you talking about?

ENFORCING CIVIL RIGHTS STATUTES

Mr. SMITH. You, yourself, have just been engaging in here. You are talking about the fact this administration has not been enforcing the civil rights statutes. I say that is flatly false.

Senator WEICKER. I presented you with a report by the Leadership Conference on Civil Rights.

Mr. SMITH. Containing numerous generalities, no specific instances, numerous inaccuracies.

Senator WEICKER. Now we are getting a little milder in our criticism. It is totally false, totally untrue.

Mr. SMITH. Shall we read the record again?

Senator WEICKER. All I am trying to get is your response to this statement. You don't agree with much in the statement.

Mr. SMITH. I certainly do not.

Senator WEICKER. That is your answer then.

Mr. SMITH. I am surprised that I didn't get your——

Senator WEICKER. I made the inquiry to you as to whether or not there might not be something within the Department of Justice itself that would either give rise to the report or something the Department could do to give the impression of a greater enthusiasm for enforcement of our civil rights laws.

Mr. SMITH. Well, I am afraid I don't know how to answer that question then.

Senator WEICKER. Somehow——

NEW EMPHASIS IN APPLYING CIVIL RIGHTS LAWS

Mr. SMITH. We are doing the job. We are enforcing the civil rights statutes.

It is true that we have changed directions in that Department. As a matter of fact, we have changed directions in several different areas, primarily busing, primarily quotas, where there are many people in the civil rights movement who would disagree with those changes. There is no question about that. And the fact they disagree with those changes I am sure is one of the reasons that these charges have been made. It is quite understandable, I think, when you do reverse direction there will be people who disagree with that reversal that will react strongly. As a matter of fact, there has been strong reaction evidenced in that report. Unfortunately, it has gone too far and broad conclusions have been drawn that are not justified in any way by the record.

VOTING RIGHTS ACT

Senator WEICKER. Well, even this goes a little bit afield. I suppose maybe there is some reason for this feeling when people see the administration's position on the Voting Rights Act, when they see the positions——

Mr. SMITH. Mr. Chairman——

Senator WEICKER. Let me just finish, Mr. Attorney General—when they see the administration——

Mr. SMITH. It has been a misrepresented position, by and large.

Senator WEICKER. As I understand it, there are quite a few Senators and Congressmen who disagree with the administration's position on the Voting Rights Act.

Mr. SMITH. Some of whom have been misunderstood.

Senator WEICKER. When you see a position of no position on the Helms-Johnston language on the floor of the Senate——

APPOINTMENTS TO CIVIL RIGHTS COMMISSION

Mr. SMITH. These are all your characterizations.

Senator WEICKER [continuing]. When two appointees to the administration, Mr. Bell and Mr. Clark, are withdrawn and Dr. Flemming is knocked off the Civil Rights Commission. I go right down the whole checklist of what would be considered signals.

In my view, you say you are serving the community well in terms of minorities. Every single minority, the interest group of every single minority is represented in this report, every single one of the people you are "serving well." Who am I supposed to believe? That is all I am asking here.

Mr. SMITH. Well, is that a statement or a question?

Senator WEICKER. I am asking a question. Who am I supposed to believe?

Mr. SMITH. Well, that is your choice, based upon the facts. All I can do is state what our——

Senator WEICKER. Well, I would like to see a statement then of those

who are supporting—in other words, those who are affected most by the administration's attitudes in these areas. You are absolutely right, if we have this report in hand we should have another report on hand.

Mr. SMITH. On what issue?

Senator WEICKER. On the issues raised in here, that I described to you, except the Presidential nominees.

Mr. SMITH. All I can do is repeat we are doing our job down there and we are doing it every day. It is true that there are those who have been able to seize upon a couple well-publicized cases to create the contrary position. All I can say is they are just wrong.

JUSTIFICATION FOR CIVIL RIGHTS DIVISION

Senator WEICKER. The budget justification submitted with the 1982 request for the general litigation program stated as its long-range goal "to eliminate segregation in districts formerly operating dual school systems." Today I pick up the justification and see that the goal is now to eliminate "de jure segregation in districts formerly operating dual school systems."

Now maybe you would like to go ahead and clarify the Department's objectives in respect to the school desegregation.

Mr. SMITH. I am not sure. What are you reading from?

Senator WEICKER. Go get the actual document. There was a change, obviously, in language from the document. We will get the information.

JUVENILE JUSTICE PROGRAM TERMINATION

While she is getting that, last year you expressed regret that the administration was proposing to eliminate the juvenile justice program. Congress took the initiative, reauthorized and provided appropriations for the continuation of these programs in 1982. Now, the 1983 budget again proposes to terminate the juvenile justice programs.

I am puzzled because your own Task Force on Violent Crimes pointed out the increasing problems of juvenile crime. Yet, it seems to me that you are eliminating the only program in the Department which is equipped to deal not only with criminal conduct of juveniles but also to prevent such conduct and to deal with the rehabilitation of the juvenile offender. Can you explain why?

Mr. SMITH. Yes; as a matter of fact, the same reason that I explained last year; namely, that we do not consider this to be an activity that is most appropriately carried on at the Federal level. It is one of the hard choices. As a matter of fact, it is one of those programs that we think is a desirable program. But considering budgetary restraints, considering the fact we believe that is an activity that should be conducted by State and local people, are the reasons why we have proposed that.

Also, there is an additional reason, and that is that in the various districts, the interrelationship between juvenile and adult crime will vary. Therefore, the manner in which the problem should be handled can best be determined on a local level rather than on a Federal level. In addition, the original statutory basis for Congress enacting that program probably has been accomplished.

Senator WEICKER. I have further questions on juvenile justice that I will submit for the record. I will ask one more question and then Senator DeConcini will take over.

LEGISLATION NOTIFYING CONSTITUTIONAL PROTECTIONS

Attorneys General in the past have felt compelled to protect the courts from political excess. You, however, have deliberately and openly urged the courts to heed "the groundswell of conservatism evidenced by the 1980 election." You have warned the courts of serious attacks on their independence, but, as Attorney General, you have said nothing about the attack on your end. Thus you have created the impression that you and the administration support and encourage legislative actions which would overrule the decisions of the court on constitutional matters.

Do you believe it is appropriate for Congress to rewrite constitutional protections through simple legislation?

Mr. SMITH. As a matter of fact, there again is a misstatement which has been widely repeated. We never took a position that courts should follow the election returns. What we said is that we intended to follow the election returns. And in the area of judicial restraint, that has been a program upon which the President has run ever since he has been in public office.

Following the elections, we not only have intended to pursue a course of urging judicial restraint but we have in fact undertaken such a program.

Senator WEICKER. What is it?

Mr. SMITH. That is what I said. And the idea that I have said that the courts should follow the election returns just is not so.

APPOINTMENTS OF JUDGES WHO SUBSCRIBE TO JUDICIAL RESTRAINTS

Senator WEICKER. What is the program you refer to that you are going to undertake?

Mr. SMITH. Well, we intend, to the degree we can, to appoint judges who subscribe generally to the philosophy of judicial restraint. We are going to raise questions of justiciability that haven't been raised before. As a matter of fact, we have already done so successfully, and we will continue to do so.

Of course, this is not a decision for us to make. All we can do is to urge the judiciary.

Senator WEICKER. I think what you state is proper. I would like to agree with you. You have every right to appoint those to the bench you feel are committed to your policy. I am not sitting here trying to debate that or indeed to raise issues of disagreement. But my question is do you believe it is appropriate for the Congress to rewrite constitutional protections through simple legislation?

Mr. SMITH. Again, I just cannot answer that question in a vacuum.

Senator WEICKER. Senator DeConcini, would you take over the Chair now?

Senator DECONCINI [presiding.] Mr. Chairman, I can stay here until about 10:30 or 10:35.

Mr. Attorney General, welcome to the committee.

Mr. SMITH. Thank you.

Senator DECONCINI. Sometimes these committees require crash helmets, as——

Mr. SMITH. As I just found out. [Laughter.]

Senator DECONCINI. The chairman is a most fair chairman, I can assure you, in his deliberations, and his support of the Justice Department has been proven in the budget process last year.

I have a couple of questions regarding Arizona and a couple of general questions, Mr. Attorney General. Then we will proceed to your statement.

As you know, Mr. Attorney General, the rate of criminal activity has reached unprecedented levels in my State. It continues to rise. The number of Federal detainees and prisoners has escalated accordingly, resulting in an overflow of State and local jails, prisons, most of which are already near or over capacity. Several suits have been filed in this connection.

PHOENIX FEDERAL CORRECTIONAL INSTITUTION

The situation is interfering with the orderly administration of justice, according to Federal judges whom I have talked to just as of yesterday and over the last 2 years.

The committee provided $15.95 million for the construction of a correctional detention facility in central Arizona in 1978. Those funds were provided, but for different reasons, partly because a location couldn't be found that year, they were never obligated. In the meantime, the total cost of the facility has risen to $23.92 million.

Last fall $1.9 million was reappropriated for site acquisition and design of this facility. It is not in the administration's budget, but it was put in by the committee.

In the 1983 budget, which you have submitted here, you request no funds for completion of the project. I would like to ask if consideration was given to that, if reconsideration would be given, and what the administration's or the Justice Department's response would be if the funds were added.

Mr. SMITH. As a matter of fact, Senator, we expect to have funds in the budget as requested to accomplish that.

Senator DECONCINI. You do?

Mr. SMITH. To accomplish the construction.

Senator DECONCINI. For the year 1983?

Mr. SMITH. We hope, yes. And, as a matter of fact, I think there are funds there to accomplish that.

Senator DECONCINI. Without any add-on to the bill?

Mr. SMITH. Without any add-on. If we are wrong on that, then we will be requesting a supplemental.

Senator DECONCINI. That is very encouraging, Mr. Attorney General. I thank you for that.

Mr. SMITH. I want to say we are very much in favor of that project because as you know, in the Federal prison system, we are already over our capacity, by a substantial margin. We feel we need that facility to accomplish that.

Senator DECONCINI. I am very pleased to hear you say that, that there wasn't some abandonment of the project.

Mr. SMITH. No.

Senator DECONCINI. There is certainly no partisanship. It is what is necessary for the justice system in Arizona. It is very complicated. We have one and the ground is to be broken in the next couple months in southern Arizona. We would sure like to break ground in 1983 for this one. So I appreciate your support, Mr. Attorney General.

Mr. SMITH. We hope to do the same thing here.

STATE/LOCAL ORGANIZED CRIME STRIKE FORCES

Senator DECONCINI. Regarding one other question, the Department's budget once again proposes no funds for joint State and local organized crime strike forces. Is there in your view no Federal interest in promoting better interstate and State-local cooperation in law enforcement?

Mr. SMITH. There is indeed. But that particular item again is part of a hard choice. Other things being equal, we think it should continue. We think it should continue, period, actually. But our general thrust is that this activity should be taken over by State and local governments. It is part of a pinching down effort.

Senator DECONCINI. I take it the judgment is primarily motivated by the need to reduce expenditures.

Mr. SMITH. That is right.

Senator DECONCINI. Not one of lack of belief that it is a good program.

Mr. SMITH. Certainly not.

FBI/DEA REORGANIZATION

Senator DECONCINI. In place of that, what does the Justice Department propose to do to attempt to coordinate interstate, State and local cooperation with Federal law enforcement agencies on the organized crime and narcotics enforcement? Is there any plan?

Mr. SMITH. We think that we made a very dramatic change for the better in connection with the recent utilization of the FBI in this area. In other words, DEA working with the FBI will have now a substantial added resource that it hasn't had up to this point. And we are very encouraged by what has happened already just during the experimental period in order to achieve a better overall result.

In addition to that, we will shortly, as the President has already indicated he would, be announcing an interagency group to deal with the drug problem on a more effective and broader basis, bringing in, for example, more active participation by the State Department, by the Defense Department, and other departments that deal with the drug enforcement effort.

FBI ROLE IN NARCOTICS CONTROL

Senator DECONCINI. Mr. Attorney General, obviously the decision has been made by the administration, and I suspect you concur, of blending in or integrating the DEA into the FBI. Does this trouble you, that the FBI I believe has 140 or 150 specific statutes to enforce, and now it will also have the narcotics statutes to enforce? Will that still amount to a real concerted, coordinated effort toward the drug traffickers?

Mr. SMITH. Yes; because it is true that the FBI, of course, has a host of other responsibilities, but they are all related in a very real way—in other words, the tie-in between drug trafficking and organized crime, for example, and the tie-in between drugs and white collar crime. They are all related. So what the FBI would be doing really would be expanding its expertise in areas which it has not before been involved with, which is namely drugs, which is the heart of so many of these problems. And to the extent that this would call upon the FBI to let's say do something less in other areas, it would be done in the lowest priority areas. So that overall it would be I think a great improvement in the law enforcement thrust.

NARCOTICS TRADE AND ENFORCEMENT

Senator DECONCINI. I take it, Mr. Attorney General, and we will get an opportunity to ask him, the Director of the FBI is committed to shift at least the emphasis in the FBI in accordance with this integration of the DEA to participate more in the organized narcotic trade and enforcement by the major law enforcement agencies of the law. Is that a fair statement?

Mr. SMITH. I don't know whether I would say it is a shift in entities.

Senator DECONCINI. I mean from what the FBI was doing prior to the DEA being blended in. There will be more emphasis on the FBI now working with this new integrated DEA?

What I am trying to find out is, is there a policy from your standpoint, Mr. Attorney General, to direct more resources toward the enforcement of organized crime and drug enforcement? I don't know whether there is. Merely by the reorganization.

REORGANIZATION WILL NOT CHANGE PRIORITIES

Mr. SMITH. Well, the reorganization is not intended to change priorities, not intended to say we are going to do this at the expense of organized crime, white collar crime, what have you. There is no conscious effort or desire really to change priorities. What we are doing really is getting the FBI and its great resources into an area which is central to so many of the other areas that the FBI is already involved in. So we are not saying that the FBI is now going to be involved in drug traffic; therefore, it will not be as active in white collar crime, for example. We are not saying that.

Senator DECONCINI. But you cannot do everything.

Mr. SMITH. We cannot do everything. To the extent we may have to do less in other areas, it would be strictly in the low priority fields. In

other words, the low priority items would be the ones that would have less resources thrown at them.

ORGANIZED CRIME AND DRUG PRIORITIES

Senator DECONCINI. Let me ask you this question: Is it the administration's policy, compared to say 1981, or say 1980, rather, to emphasize more enforcement in the area of organized crime and drug enforcement for the 1982 and 1983 years than it was in 1981 or 1980?

Mr. SMITH. I think I would have to answer that question yes, because I think by virtue of getting the FBI involved in drug trafficking, that ultimately is going to help us in organized crime.

LAW ENFORCEMENT COORDINATING COMMITTEE

Senator DECONCINI. I hope you are right. Mr. Attorney General, I have had an opportunity to review your statement here. One part of it makes reference to establishing within the U.S. attorneys the Law Enforcement Coordinating Committee.

Mr. SMITH. Yes.

Senator DECONCINI. Indeed, if that is really given the emphasis, and when I stress this I do it in a friendly manner, from you, a directive from you, that might work in this Senator's judgment, having been a prosecutor. I hope that that is given a high priority on your list to see that it is actually implemented in the U.S. attorneys. It would be very helpful.

Mr. SMITH. As a matter of fact, Senator, it has been given the highest priority.

Senator DECONCINI. Thank you. That is very encouraging.

Mr. SMITH. Not only are we doing it, we are following up on it. As a matter of fact, I attended a meeting with the Law Enforcement Coordinating Committee in Phoenix.

Senator DECONCINI. Very good.

Mr. SMITH. I have attended several. Some of the other people have attended many of them. We have had uniform reports back, certainly from my own experience, that there is a great deal of enthusiasm for this.

Senator DECONCINI. I think it is a good idea. If it really comes from the top, as they say, I think it will work. If it doesn't come from the top, it will get lost in the administration struggle.

Mr. SMITH. We are going to pursue it.

LAW ENFORCEMENT REDUCTIONS

Senator DECONCINI. I will go to one question here that troubles me about some of the reductions.

On September 28, 1981, President Reagan commended the International Association of Police Chiefs "for manning the thin blue line that holds back a jungle which threatens to reclaim this clearing we all call civilization."

It was remarkable that at the same time the President was reducing the Federal presence on "the thin blue line" by a considerable amount,

such as a 12-percent cut in DEA, a 6-percent cut in the FBI, a 10.4-percent cut in the Coast Guard.

Our analysis of your 1983 budget indicates that the administration is proposing the thin blue line again. Let me cite just two examples, and I stand corrected if they are inaccurate. The FBI is going to lose 408 positions, including 121 special agents, as the Bureau is being forced to absorb inflation by reducing its staff. Second, the Coast Guard is budgeted for 3,650 less military positions than they had in 1981.

Mr. Attorney General, you have said much about crime, but the budget doesn't give me any confidence that there is an overall law enforcement strategy. As former Attorney General Mitchell said, "Watch what we do, not what we say."

From what we can see, there is nothing but reductions in the Federal law enforcement agencies. According to our analysis of 1983, of the nine most prominent law enforcement agencies, their personnel will decrease by almost 20,000 positions from the 1981 levels. I will provide this analysis for the record of our hearing.

[The information follows:]

ANALYSIS OF SELECTED FEDERAL LAW ENFORCEMENT EFFORTS

	1981	1982[1]	1983	Comments
Coast Guard	$2,040,791,065	$2,400,158,927	$1,937,647,350	Law enforcement.
(Positions)	(38,586)	(35,689)	(34,938)	Cutter patrol hours down 1982 to 1983. Personnel down 10 percent from 1981.
Customs	$498,468,000	$508,984,000	$530,524,000	Down 1,804 position, 1,170
(Positions)	(13,228)	(14,018)	(12,214)	of this total are inspector positions; $38 million in program cuts in 1983.
ATF	$149,850,000	($115,600,000)	($124,895,000)	Proposed for transfer to
(Positions)	(3,671)	((2,454))	((2,450))	Customs and Secret Service.
Secret Service	$178,339,000	$223,133,000	$294,407,000	
(Positions)	(3,722)	(5,473)	(5,473)	
U.S. attorneys and marshals	$277,917,000	$291,850,000	$320,945,000	186 positions cut does not match increase in judges. Criminal cases and attor-
(Positions)	(6,801)	(6,520)	(6,334)	neys remain constant in face of administration's violent crime initiative.
DEA	$215,300,000	$230,849,000	$246,945,000	Two percent reduction in
(Positions)	(4,030)	(3,953)	(3,953)	authorized positions from 1981; 100 fewer work- years of effort in 1983.
FBI	$674,521,00	$739,609,000	$799,331,000	121 special agent positions
(Positions)	(19,306)	(19,456)	(19,048)	cut mostly in area of white collar crime; 408 positions cut in total.
INS	$366,017,000	$428,557,000	$524,599,000	Two percent cut in posi-
(Positions)	(10,886)	(10,604)	(10,661)	tions from 1981.
IRS	$2,479,743,000	$2,465,551,000	$2,917,159,000	Sixteen percent cut in posi-
(Positions)	(76,575)	(56,876)	(64,575)	tions from 1981.
Totals	$6,893,686,065	$7,298,791,927	$7,571,557,350	
	(176,805)	(152,589)	(157,196)	

[1]Does not include pay raises.

APPROVAL OF REDUCTIONS

Senator DECONCINI. As the Nation's chief law enforcement officer, what part did you have in approving these reductions, and can you explain how we are going to keep this thin blue line with such a substantial reduction in financial resources toward fighting crime?

Mr. SMITH. As a matter of fact, I will accept my predecessor's statement. "Watch what we do, not what we say."

I think probably looking at a budget is a classic example of what you say is distinguished from what you do, because although the budget does say that we reduced by some 300 or 400 positions, all of those are unfilled and unbudgeted positions. The fact is that we are not in any way decreasing the FBI's capacity or people on board or ability to continue to do what we are doing now. As a matter of fact, with our uncontrollable increase, we can continue to do what we are doing now without any lessening at all. As a matter of fact, we actually have up to 1,200 positions that can be filled in the FBI that have not been filled.

Senator DECONCINI. Why haven't they been filled?

Mr. SMITH. Because as of this point we haven't had the occasion to do it.

EMPLOYMENT FREEZE

Senator DECONCINI. Is there a freeze on? Is that what has prevented it?

Mr. SMITH. There has been a freeze in the past which has kept us below our authorized level.

Senator DECONCINI. Would you like to see the freeze lifted so you could fill the positions?

Mr. SMITH. Well, I think it is true that any agency would prefer to have more resources than it in fact has. But I can certainly assure you that this budget will not in any way decrease the effectiveness or current operation of the FBI. On the contrary, we can strengthen it.

Senator DECONCINI. Would we have a better national offensive toward law enforcement and fighting organized crime, et cetera, if we did not have the freeze and you and your agencies could fill those positions?

Mr. SMITH. Well, always, as I say, we would——

ADDITIONAL RESOURCE REQUIREMENTS

Senator DECONCINI. I am not trying to put you, you know, in contradiction with OMB or the White House or something. I am just trying to find out what you need. I realize you take what is dictated and handed over to you. But Congress is independent and we can sometimes make some additions to provide you with the resources, notwithstanding what OMB or the White House may say. Then, of course, they have their recourse of vetoing the bill or what have you. I am just trying to solicit if those resources are really there, I think with your integration and your reorganization, that you need additional resources with the rise in crime. I am not the person to make the judgment as to

implementing it and administrating it. I am just really seeking counsel or suggestions within the realm of your structure of what you think is necessary.

EMPLOYMENT FREEZE LIFTED

Mr. SMITH. Concerning that freeze, maybe Kevin can answer.

Mr. ROONEY. If I may, Senator, the freeze in effect has been lifted. The only caution that the Director of the FBI and the other agencies have is awaiting the fourth continuing resolution. If the funding levels continue at the level of the current continuing resolution, then we would be operating at a level in effect that is proposed in our 1983 budget, which would allow us in the FBI to go up approximately 600 positions the rest of this year and then with this budget another 600 after that.

Senator DECONCINI. Mr. Chairman, I have taken up ample time. I have a number of other questions. I would like to reserve the right to submit them to the Justice Department.

Mr. SMITH. We would be glad to answer them.

Senator DECONCINI. I want to thank the Attorney General and his staff for particularly their public pronouncement here on the detention center in central Arizona.

PREPARED STATEMENT

Senator COCHRAN [presiding.] Mr. Attorney General, we appreciate your being here. You haven't had an opportunity to present your prepared statement to the committee. We will make it a part of the record in full, together with any addendum or appendixes that you have attached to it.

[The statement follows:]

STATEMENT OF WILLIAM FRENCH SMITH

I am pleased to be with you today to discuss the 1983 budget request for the Department of Justice. My total 1983 request is for $2.67 billion and 54,104 positions. This level of resources would allow me to maintain the Department's Federal law enforcement operations at the current level of effort. In view of the necessary, yet significant Federal budget reductions proposed for domestic programs, the Justice request reflects the President's strong commitment to an effective law enforcement program.

Our request includes uncontrollable cost increases of $196.1 million, program increases of $67.8 million, proposed transfers from other Departments of $22.2 million, and program reductions of $94.2 million. The major part of our program increase is for $58.7 million to fund the transfer of responsibility to the Attorney General for Cuban/Haitian entrants under the Refugee Assistance Act of 1980. Nearly all of our program reductions are related to the elimination of four programs which we had requested the Congress to eliminate last year. These consist of State and local grant programs and the United States Trustees activity.

Our request represents a continuation of this Administration's commitments and priorities which I enunciated before this committee a year ago. At that time I spoke of the need for all Federal agencies to share in overall spending and personnel reductions. I emphasized our commitment to priority crime control areas and the need to reduce Federal subsidies to State and local agencies.

We have contributed our share to necessary overall reductions in Federal spending and in the size of the Federal workforce. While accomplishing this, we have been able to fully maintain essential operations and have increased Federal law enforcement efforts in high priority areas. We are also returning control of State and local criminal justice programs to those officials who are closest to the needs of local crime problems.

As I have indicated on several occasions before this and other committees, violent crime is one of the most urgent problems facing the nation. I am convinced that narcotics trafficking is a major contributing cause of violent crime. Economic conditions continue to require us to consider solutions which do not rely on merely spreading Federal funds to solve the crime problem. In

the long run we are likely to be more effective by seeking improvements in how we combat crime than simply by increasing Federal expenditures of money and manpower. With this in mind, we have begun to restructure the Drug Enforcement Administration and, for the first time in the history of the FBI, its agents have also been given a major drug enforcement role. The Director of the FBI has been designated to assist me in overseeing these joint enforcement efforts. Through Department initiatives, the Navy and Air Force are now furnishing information to civilian law enforcement agencies on sightings of suspected drug traffickers heading for the United States and, within the constraints imposed by law, they are providing intelligence on possible narcotics operations.

To minimize duplication of effort and waste of resources among Federal, State and local law enforcement agencies, I have directed each of our United States Attorneys to establish a Law Enforcement Coordinating Committee that will closely cooperate with State and local enforcement officials and will draft detailed plans for a more effective use of Federal resources against the worst local crime problems.

Last year I announced the appointment of my Task Force on Violent Crime. Over the past several months, you have become well aware of their recommendations. Some of those recommendations, such as reforms in bail laws and other parts of the criminal code, will require Congressional action, and legislative proposals are under discussion. Another recommendation addressed the serious shortage of prison space at the State and local level. In response to this problem, we have developed a program to facilitate the turnover of surplus Federal property to States for use as prisons and jails and, again this year, I am seeking authority to assist in improvements to local jail facilities through a Cooperative Agreement Program.

In other areas, the Task Force recommendations and our internal management reviews have assisted us in directing the resources of the Department and other Federal, State and local law enforcement agencies toward a more effective fight against crime. Although the problems this society faces with respect to crime and its effects are enormous, the resources already available to the Federal government are significant, and the focus of our effort should be to achieve a level of efficiency and effectiveness that has often been lacking.

LAW ENFORCEMENT

The additional resources made available to the Federal Bureau of Investigation in 1982 will allow us to maintain a strong commitment to our enforcement priorities in 1983 at the current level of operations. Although our 1983 requested level shows a decrease in authorized positions, these positions have never been fully funded or filled. In fact, my request for the FBI is higher than the current on-board strength and will allow for an increase in actual employment.

As I stressed to you, Mr. Chairman, in a letter early last month, we also intend to continue our efforts to provide applicant fingerprint processing services on a reimbursable basis. We do not intend to charge State and local law enforcement agencies for these services, but need your support in our efforts to place the cost of non-law enforcement requests upon the direct beneficiaries of such services, such as private institutions and state licensing boards.

With concurrent jurisdiction over the investigation of Federal drug offenses assigned to the FBI, I am fully confident that an infusion of FBI resources and expertise, to supplement those of DEA, will aid our national drug enforcement effort. For the Drug Enforcement Administration itself, we are requesting a relatively minor program decrease from current services to be allocated proportionally among DEA's programs. These decreases will be achieved through improved operational efficiency and reductions in redundant administrative activities. There will, however, be no reduction in authorized positions for DEA.

I am also creating a high-level Justice Department committee to oversee the development of drug enforcement policy and to assure that all the Department's resources, including its prosecutorial and correctional efforts, are effectively engaged in the effort against drug trafficking.

DEA has made significant progress in controlling the availability of Southwest Asian heroin. Much of the Southwest Asian heroin destined for the United States in 1980 and 1981 never reached this country. While supplies of opium in Southwest Asia continue to be abundant, enforcement pressure will be maintained on Southwest Asian heroin availability by the appropriate domestic and foreign field offices. Furthermore, asset seizures of major narcotics traffickers have increased substantially. In the past two years alone, DEA

seized approximately $255 million of drug-related assets. Seizures this year are expected to exceed the total dollar amount of the DEA budget. Continued efforts in the "asset seizures" area will, no doubt, have a considerable effect on major drug trafficking.

For the United States Marshals Service, the budget request reflects the joint efforts of the Department and the Courts to develop sound, coordinated responses to our mutual problems. Since my initial meetings with the Chief Justice last spring, we have joined in efforts to resolve the management and resource problems affecting both the service of private process and the provision of court security. This year's budget is based on our continued desire to establish fees to directly fund actual costs for the service of private process. Statutory authority to fund our activities in this manner would result in increased participation by private businesses in providing process service and eventually reduce the burden on taxpayers to subsidize this activity. This is one example of the Administration's efforts to encourage private alternatives to Federal government action through the imposition of user fees. Since valuable Federal law enforcement dollars are now required to subsidize this activity, I have emphasized my interest in your support, Mr. Chairman, in my recent correspondence to you on user fees. With the cooperation and assistance of the Administrative Office of the U.S. Courts we have completed an initial plan which addresses the assignment of Deputy U.S. Marshals in courtrooms for security purposes on the basis of anticipated risk levels. This plan provides standard risk indicators which will be used in each judicial district to determine the requirement for a Deputy in the courtroom. The determination will be made jointly by the U.S. Marshal, the U.S. Attorney and the local Federal judiciary. The Chief Justice and I have had further discussions on this matter and we have reached an agreement on a proposed solution. On March 11, 1982, we issued a joint statement to the Judicial Conference in which we outlined this solution. I would be happy to provide a copy of the joint statement for the record.

The area of immigration is one that has received a lot of attention over the past year. I served as chairman of the Task Force on Immigration and Refugee Policy that reviewed the earlier Select Commission's report. Based on our recommendations, the President requested an amendment to our 1982 budget to provide

the Immigration and Naturalization Service with increased resources for its enforcement programs. A large part of this request has been provided in the current Continuing Resolution; I continue to urge the Congress to include the remaining part of this package--specifically the funding for a permanent detention facility--in your next action on our 1982 funding levels.

We have also submitted an immigration legislative program. This program included establishing employer sanctions with penalties for employers who knowingly hire undocumented aliens; establishing a temporary worker program to allow aliens to work in certain types of employment in geographic areas where there is a lack of available citizen labor; permitting undocumented aliens residing in the United States to receive permanent status after ten years; providing visa waivers for tourists and business travelers who wish to visit the United States for short periods of time; and providing the President with a wide range of authority in the event of an immigration emergency. These and other legislative initiatives have been transmitted to the Senate as part of the Omnibus Immigration Control Act.

The INS has not had a permanent Commissioner in several years. There is no question this has detracted from its stability, as well as its ability to formulate and implement cohesive immigration initiatives on behalf of the Attorney General. Mr. Alan C. Nelson has now taken the oath of office as the first INS Commissioner in 2 1/2 years. We are hopeful that we can now get on with the business of implementing a strong, responsive program at INS.

In addition to continuing the current operations of INS, my 1983 request includes a new program activity which is being transferred from the Department of Health and Human Services. This new activity provides for the processing, care, maintenance, security, transportation and initial reception and placement in the United States of Cuban and Haitian entrants. By recent Executive Order, this activity was transferred from the Cuban/Haitian Task Force within the Department of Health and Human Services to the Department of Justice.

LITIGATION

Our litigating organizations are the vital link in carrying out this Administration's law enforcement responsibilities and in defending Federal pro-

grams in court. I am quite sensitive to the primacy and central role of the Department of Justice in Federal litigation. As I have previously testified, I am firmly committed to the principle that the Attorney General is responsible for the coordination and management of the Federal government's litigation.

My request for both the General Legal Activities appropriation and for the United States Attorneys would continue the anticipated 1982 levels, with a modest funding increase for payments to private counsel. I am confident that these levels will permit us to keep pace with our increasing litigative and prosecutorial activities. While funding for the legal divisions and the U.S. Attorneys will support at least the same level of effort as in this year, we will see some shifts in emphasis.

The U.S. Attorneys and the Criminal Division will have a lead role in our program against violent crime, particularly through the development of Federal State-local. Law Enforcement Coordinating Committees to handle concurrent jurisdiction matters; this should result in a more effective use of our Federal prosecutorial resources. In this regard, I am pleased to note that the vast majority of U.S. Attorneys appointed by this Administration have had prior law enforcement experience.

A major priority in the criminal litigation programs of the Criminal and Tax Divisions will be the prosecution of major narcotics traffickers, with emphasis on financial investigations and the forfeiture of assets and profits. Organized crime and economic crime prosecutions, of course, continue to be high priorities. Fraud cases are being given increased emphasis in both the Criminal and the Civil Divisions, and we are actively improving our communication and coordination with the Inspectors General of the various departments and agencies.

In prior years, all too little emphasis has been directed in Congressional testimony to the importance of our civil litigation program. Our current defense of Federal programs represents nearly $100 billion of exposure. I cannot overstate the pivotal role this activity can, and indeed does have in protecting the financial status of the Federal government. I consider the funding of our civil litigation activities one of the most cost-effective Federal budget decisions.

A major initiative of this Administration, and a priority of mine in the Department of Justice, is the improved management of collections--collecting debts owed to the United States as a result of defaulted loans or court judgments. While this activity pertains to all of our litigating organizations, I have assigned the Assistant Attorney General for the Civil Division a lead role for all Department of Justice collections.

We are again calling for termination of the U.S. Trustees program. The Department requested that this program be phased out in 1982, but Congressional actions to date have restored it at a level of $5 million. In my meeting with the Chief Justice last spring I discussed with him the effects of terminating the program. We have agreed that responsibility for the pending caseload would be returned to the Judiciary under the overall supervision of the Administrative Office of the United States Courts, at a considerable savings in operating costs. The Department is committed to working closely with the bankruptcy courts and the Administrative Office of the United States Courts to ensure that there will be a smooth, efficient transfer of functions.

CORRECTIONS

The Federal prison population has increased by 17% over the past year. The increase is attributed to several factors, including requirements to house Cuban and Haitian detainees, the decline in the release rate and increased parole revocations. We anticipate that the Federal prisoner population will continue to grow in the future because of our aggressive investigative and prosecutorial policies. To accommodate the increase, the plan to close the Atlanta penitentiary has been deferred indefinitely, and we are seeking Congressional concurrence to allow the facility to remain operational.

To maintain the appropriate level of medical care in our prisons, an increase in postions is requested to allow us to begin the hiring of civil service physicians and dentists. This is required because of the phasing-out of the Public Health Service Hospital System.

For the Buildings and Facilities program in the Bureau of Prisons, the level requested will fund minor repair projects and payments under the lease/purchase agreement for the Oxford, Wisconsin facility. Decreases reflect the

non-recurring costs associated with rehabilitation and renovation projects and planning and site acquisition.

For the National Institute of Corrections program, the request will allow for the delivery of training and technical assistance services to State and local correctional agencies at effectively the same level as 1982.

STATE AND LOCAL ASSISTANCE

The Office of Justice Assistance, Research, and Statistics includes the Law Enforcement Assistance and the Research and Statistics appropriations. In keeping with the Department's commitment to provide necessary support to State and local criminal justice systems in the areas of research, evaluation, and statistical collection and analysis, the Department is requesting current levels of funding for the Research and Statistics appropriation. This appropriation includes the National Institute of Justice and the Bureau of Justice Statistics. In these areas, we believe that Federal funding can be utilized effectively on a selected basis to promote long-term improvements in the operation of the criminal justice system.

With respect to the Law Enforcement Assistance appropriation, I am once again proposing that funding for Juvenile Justice programs be eliminated. This proposal does not reflect a determination that these programs are unwarranted. Rather, it reflects a belief that the major statutory requirements underlying these programs have been substantially satisfied and that further efforts with respect to individual projects are best controlled and funded at the State and local level. Under this approach, individual projects can be framed to respond to local variations in the nature of juvenile criminality and its relationships to adult criminality. This approach also recognizes that crime prevention and control are fundamental responsibilities of State and local governments and fall primarily within their jurisdiction.

OTHER DEPARTMENTAL REQUIREMENTS

The Department's request for General Administration includes the elimination of the State and Local Drug Grant program and a minor increase in funding for the Federal Justice Research program. The drug grant program provides funds to establish operational information exchange facilities which primarily involve

and serve State and local law enforcement organizations. As I have said, activities of this nature are properly the responsibility of State and local governments and are best controlled and funded at that level. The increased funding for research is needed to continue efforts in the priority areas of immigration policy, drug enforcement, and violent crime.

The Department of Justice budget request also reflects the proposed transfer of $20.2 million and 333 positions from the Department of Energy, and $1,299,000 and 32 positions from the Department of Education. These transfers are part of the President's proposal to abolish these Departments. While I am not in a position to discuss these proposals in detail, these transfers would include our assuming responsibility for energy litigation under the Emergency Petroleum Allocation Act, and for civil rights enforcement and litigation activities from the Office of Civil Rights in the Department of Education.

In conclusion, I am requesting the authorization and appropriation of a 1983 Department of Justice budget which supports the Federal law enforcement levels that the Congress has thus far made available for 1982. I urge you to join with us again in this commitment to law enforcement. I also ask that you support us in the elimination of those programs for which the limited Federal dollar is no longer available.

Thank you, Mr. Chairman, I will be pleased to answer any questions you or the members of the Subcommittee may have.

ADDENDUM

DEPARTMENT OF JUSTICE FY 1983 BUDGET REQUEST

The 1983 budget request for the Department of Justice is $2,666,234,000 and 54,104 positions. This request is an increase of $191,939,000 and a reduction of 283 positions from the levels anticipated in 1982. Uncontrollable items result in a net increase of $196,143,000 and a decrease of 408 positions. Transfers of programs from the Departments of Energy and Education and some smaller internal transfers represent additional increases of $22,185,000 and 373 positions. The Department is also requesting program increases of $67,754,000 and 102 positions. Program increases include $415,000 for the private counsel program of the Civil Division; $2,694,000 to fund an increase

in detention days for the Support for United States Prisoners appropriation; $5,910,000 for the increased number and complexity of cases in the Fees and Expenses of Witnesses appropriation; $58,735,000 and 57 positions for a new program providing reception, processing, care and initial placement of Cuban and Haitian aliens; and a net increase of 45 authorized positions to allow the direct hire of medical personnel by the Federal Prison System. These increases are offset by program reductions of $94,143,000 and 350 positions. The major program reduction is a decrease of $70,000,000 and 62 positions in Juvenile Justice programs of the Office of Justice Assistance, Research, and Statistics. This addendum highlights the more significant changes within each appropriation.

GENERAL ADMINISTRATION

The request for General Administration is $40,220,000 and 731 positions, a net decrease of $1,013,000 and an increase of 8 positions compared to anticipated 1982 levels. The request reflects adjustments to base of $406,000 and 8 positions related to a transfer from the Systems Policy and Planning Staff of the Working Capital Fund operations to the Justice Management Division, and $4,319,000 in net uncontrollable increases. In addition, the request reflects a $6,000,000 reduction associated with termination of the State and Local Drug Grant program and $262,000 in nonpersonnel increases for the Federal Justice Research program to continue efforts in the priority areas of immigration policy, drug enforcement and violent crime.

UNITED STATES PAROLE COMMISSION

The request for the U.S. Parole Commission is $6,856,000 and 157 positions. These levels represent a decrease of 15 positions and an increase of $656,000 over 1982. Uncontrollable increases of $756,000 are partially offset by decreases of 15 positions and $100,000 associated with the Administration's objectives to reduce federal employment and improve program productivity.

GENERAL LEGAL ACTIVITIES

The request for the General Legal Activities is $136,565,000 and 2,743 positions, an increase of $13,365,000 and a decrease of 11 positions from the anticipated 1982 level. The changes include a transfer of $517,000 and 11 positions from the Criminal Division to the U.S. Attorneys, a program

increase of $415,000 for private counsel expenses in the Civil Division, and uncontrollable increases of $13,467,000. This level of resources will enable the legal divisions to handle approximately the same volume of caseload as in 1982.

A major priority in the criminal litigation programs of the Criminal and Tax Divisions will be the prosecution of major narcotics traffickers, with particular emphasis on financial investigations and the potential forfeiture of traffickers' assets and profits. The Criminal Division, in coordination with the U.S. Attorneys, will play an important part in the Department's program against violent crime, giving special emphasis to federal-state-local cooperation on concurrent jurisdiction matters. Another priority, especially in the Civil and Tax Divisions, will be the improved management of collections of judgments, which should result in increased dollar returns to the U.S. Treasury. The Land and Natural Resources Division's priority program against hazardous waste disposal sites will be assisted with resources from the Environmental Protection Agency's Hazardous Waste Response Trust Fund (Superfund).

High priorities of the Civil Rights Division will continue to be the prosecution of violent criminal activity in violation of the rights of individuals and groups, and the preservation of the integrity of the federal civil rights voting laws.

The only program increase we are requesting in this appropriation is $415,000 for continuing requirements in the Civil Division for the retention of private counsel. The Department continues to support amendments to the Federal Tort Claims Act, enactment of which would obviate this requirement. However, until passage of the amendments is accomplished, the hiring of private counsel to represent federal employees who are sued in their individual capacity will be necessary.

ANTITRUST DIVISION

The request for the Antitrust Division is $46,466,000 and 789 positions, a program decrease of $1,250,000 and 40 positions from the anticipated 1982 level and an uncontrollable increase of $3,716,000. This lower program level

request reflects, in part, the Administration's objective to reduce federal employment, but it also takes into account the fact that the President's original FY 1982 budget, submitted in March of last year, did not reduce the Antitrust Division as it did the other legal divisions. The requested level of resources will enable the Antitrust Division to carry out an effective enforcement program which reflects the economic policy of this Administration. That policy centers upon a concern for economic efficiency, and the Division will seek to enhance consumer welfare by attacking activity--both private practices and governmental regulations--that impairs economic efficiency. The elimination of burdensome and anticompetitive regulatory and bureaucratic restraints on productive private-sector activity will be a high priority. In carrying out the President's policy on deregulation, the Division will give heightened scrutiny to newly deregulated industries to assure that the benefits of deregulation are not lost to private cartel arrangements that seek to inhibit competition. In continuing its advocacy function before Congress and the regulatory agencies, the Division's policy will be to favor competition except where regulation is demonstrably necessary to maximize consumer welfare. The Antitrust Division can perform its mission, and undertake the vital task of reforming antitrust policy to improve the productivity of the economy and protect the interests of consumers, with the resources requested.

FOREIGN CLAIMS SETTLEMENT COMMISSION

The request for the Foreign Claims Settlement Commission is $820,000 and 18 positions, an uncontrollable increase of $115,000 over the anticipated 1982 level. The requested resources will enable the Commission to implement its newest program, the adjudication of claims of U.S. nationals against the Government of Czechoslovakia (P.L. 97-127, signed by the President in January 1982). The Commission will also continue its work on claims against the Socialist Republic of Vietnam.

U.S. ATTORNEYS AND MARSHALS

The 1983 request for the U.S. Attorneys and Marshals is $320,945,000 and 6,334 positions, which is an increase of $24,995,000 and a decrease of 186 positions from the anticipated 1982 level. The request includes uncontrol-

lable increases of $35,010,000, a non-recurring decrease of $4,000,000, a transfer to the U.S. Attorneys of $517,000 and 11 positions and program decreases of $6,532,000 and 197 positions. Program reductions include $5,503,000 and 147 positions due to the elimination of the U.S. Trustees program and $1,029,000 and 50 positions for a reduced Marshals Service operating level for the service of most private process.

U.S. ATTORNEYS

For the United States Attorneys, we are requesting $210,225,000 and 4,316 positions. The request includes uncontrollable increases of $23,783,000 and a transfer of $517,000 and 11 positions from the Criminal Division. This level of resources will permit the U.S. Attorneys to handle approximately the same level of appellate, criminal and civil workload as in 1982. The allocation of U.S. Attorney resources, however, will reflect the gradual change in the relative number of criminal and civil trials and appeals, with a greater focus on a smaller number of more complex, time-consuming criminal cases and the increasing backlog of civil cases. Increased emphasis will also be given to improved coordination with state/local law enforcement committees on concurrent jurisidiction matters, resulting in a more efficient use of our federal prosecutorial resources. The U.S. Attorneys will also play a significant part in the Administration's emphasis on the improved management of the collections of judgments. Finally, further installation of the U.S. Attorneys' automated case-management system will be possible at the level of resources being requested.

U.S. TRUSTEES

The Administration is again requesting termination of the U.S. Trustees in 1983. No funds are being sought. The Administration requested that this program be phased out in 1982, but the Congressional Conference action on the Continuing Resolution restored it at a level of $5 million.

U.S. MARSHALS SERVICE

The 1983 request for the U.S. Marshals Service (USMS) is $110,720,000 and 2,018 positions, which is an increase of $5,695,000 and a decrease of 50 positions from the 1982 anticipated level. This request reflects an increase

of $10,724,000 for uncontrollable items, a decrease of $4,000,000 for a nonrecurring 1982 supplemental request and a program decrease of $1,029,000 and 50 positions for the service of most private process. Legislation is again being submitted that will allow the Department to set fees for the service of private civil process that are commensurate with its cost and which will permit such fees to be credited to the Marshals Service appropriation. By establishing an equitable user charge the Department believes that the private sector will be able to provide reliable and efficient service of most civil process. The Marshals Service will continue to serve private process for indigents, to perform the function in areas where reliable private alternatives may not be available and where the presence of a law enforcement officer is necessary.

SUPPORT OF U.S. PRISONERS

The 1983 request for the Support of United States Prisoners (SUSP) totals $30,704,000, which is an increase of $6,604,000 over the 1982 anticipated level. This request reflects an uncontrollable cost increase of $3,910,000 and a program increase of $2,694,000. The additional funds will increase the number of jail days unsentenced prisoners are housed in state and local facilities as a result of an anticipated increase in the number of individuals arrested.

FEES AND EXPENSES OF WITNESSES

The request for the Fees and Expenses of Witnesses appropriation is $35,400,000, which includes program increases of $5,910,000 and an uncontrollable increase of $1,569,000 over the anticipated 1982 level. Funds from this appropriation are used by all of the Department's litigating organizations for the payment of fact and expert witnesses in court, for the protection of witnesses in sensitive cases, and for examinations to determine the competency of defendants to stand trial. Increases are required for all four activities in this appropriation.

- An increase of $1,598,000 is requested for the Fact Witnesses activity for an increase in witness-attendance days and for the increasing cost of travel, per diem and mileage costs associated with fact witness testimony.

- An increase of $2,493,000 is requested for Expert Witnesses to provide for increases in the number of cases using expert witnesses, the number of witnesses used per case, the rates charged by experts, and the increased costs associated with the travel, lodging and subsistence paid to expert witnesses.

- An increase of $1,712,000 is requested for the Protection of Witnesses activity to provide for increased costs associated with the travel, subsistence, relocation, housing and medical expenses of protected witnesses and their families. The increases are due, in part, to an increase in the number of months that witnesses are being maintained in the program.

- An increase of $107,000 is requested for Mental Competency Examinations to provide for a projected increase in the number of court proceedings involving mental competency as an issue and for increases in psychiatrists' fees.

COMMUNITY RELATIONS SERVICE

For 1983, $5,926,000 and 88 positions are requested for the Community Relations Service. This represents an increase of $426,000 and a decrease of 12 positions compared to anticipated 1982 levels. Net uncontrollable increases of $613,000 are partially offset by reductions of 12 positions and $187,000. These reductions reflect a declining workload in certain areas, expected productivity gains and further narrowing of case selection criteria.

FEDERAL BUREAU OF INVESTIGATION

The 1983 request for the Federal Bureau of Investigation totals 19,048 positions and $799,331,000. This represents a net increase of $59,722,000 and a decrease of 408 positions from the anticipated 1982 level of 19,456 positions and $739,609,000. The changes for 1983 include uncontrollable increases of $64,235,000, automatic decreases of $4,431,000, the elimination of 395 unfunded and unfilled positions, and a minor reduction of 13 positions and $82,000 to the Records Management program.

The FBI expects to reinstitute processing of fingerprint cards submitted by banking institutions, and state and local employment and licensing agencies

pursuant to P.L. 92-544. At that time, processing will be accomplished on a fully reimbursable basis. The 1983 request includes 588 positions and 570 workyears expected to be realized from the activity.

IMMIGRATION AND NATURALIZATION SERVICE

The 1983 request for the Immigration and Naturalization Service (INS) totals $524,599,000 and 10,661 positions which represents a net increase of $96,042,000 and 57 positions above the anticipated 1982 level. The overall dollar increase is comprised of uncontrollable increases of $43,869,000 and a program increase of $58,735,000 which are offset, in part, by nonrecurring decreases of $6,562,000.

The only program increase in the INS budget is for 57 positions and $58,735,000 for a new activity entitled Reception, Processing and Care. This activity provides for the processing, care, maintenance, security, transportation and initial reception and placement in the United States of Cuban and Haitian entrants. By Executive Order 12341, this activity was transferred from the Cuban/Haitian Task Force within the Department of Health and Human Services (HHS) to the Department of Justice.

DRUG ENFORCEMENT ADMINISTRATION

The 1983 request for the Drug Enforcement Administration (DEA) is $246,945,000 and 3,953 positions, which is an increase of $16,096,000 from the 1982 appropriation anticipated. Adjustments to the base account for a net change of $18,596,000.

Program decreases of $2,500,000 and 100 full-time equivalent workyears support the President's economic recovery program and will be allocated proportionally among DEA's programs. Greater involvement by the Federal Bureau of Investigation (FBI) in the investigation of federal drug offenses and placing a high priority on the coordination of drug investigative efforts involving the DEA, the FBI, and the U.S. Attorneys and other federal agencies should result in a more efficient use of drug enforcement resources.

This budget request will enable DEA to provide for the on-going level of operations.

FEDERAL PRISON SYSTEM

The resource level for the Federal Prison System is indicative of the expected growth in the federal inmate population. The dramatic increase in the population for the past year is related to the continued requirement to house Cuban detainees, a decline in the release rate and an increased number of parole revocations. The anticipated future growth in the population is based upon these same factors and the concomitant impact of pursuing an aggressive investigative and prosecutorial policy to combat the incidence of violent crime. Currently, the federal prisoner population exceeds available capacity by approximately 17 percent. To accommodate the increase, Congressional concurrence has been sought to keep the Atlanta penitentiary operational.

The 1983 request totals $394,254,000 in budget authority and 9,022 positions compared to the anticipated 1982 request of $377,917,000 and 8,977 positions. This resource level is distributed among the "Salaries and Expenses," "Buildings and Facilities" and "National Institute of Corrections" appropriations.

SALARIES AND EXPENSES

The 1983 request for "Salaries and Expenses" is $376,533,000 and 8,967 positions. This resource level represents a net increase of $23,533,000 in budget authority and 45 positions over the 1982 anticipated appropriation. A portion of the net dollar increase is comprised of $26,885,000 in uncontrollable costs which is offset by non-recurring activation costs of $825,000 for the Tucson, Arizona Detention Center and annualization of reductions in the amount of $1,320,000 associated with reducing FPS' farm operations in 1982.

The program increase of 57 positions will enable FPS to hire civil service physicians and dentists to replace those Public Health Service (PHS) medical personnel who are being phased-out over three years due to the termination of the PHS Hospital System in 1982.

Also, offsetting the net increase are personnel-related decreases totaling $1,207,000 and 12 positions distributed among nine programs which are the

result of the Administration's intention to reduce federal employment under the President's Program for Economic Recovery.

NATIONAL INSTITUTE OF CORRECTIONS

The 1983 request for the National Institute of Corrections appropriation (NIC) is $11,054,000 and 30 positions. This is a net decrease of $132,000 from the 1982 anticipated appropriation level. The change in the resource level is due to a program decrease totaling $1,043,000 which reduces NIC's level of grant activity in 1983. Partially offsetting the program reduction is an uncontrollable increase in the amount of $911,000.

BUILDINGS AND FACILITIES

The 1983 request for the Buildings and Facilities appropriation is $6,667,000 and 25 positions. This resource level represents a net decrease of $7,064,000 in budget authority from the 1982 anticipated appropriation level. The decrease is the result of the completion of rehabilitation/renovation projects ($5,155,000) and nonrecurring costs ($1,920,000) associated with acquiring a site in central Arizona for future construction of a federal correctional institution. Offsetting the decreases is an uncontrollable increase of $11,000. In 1983, FPS plans to fund several minor repair and improvement projects and a $1.5 million installment for the Oxford, Wisconsin lease/purchase agreement.

LAW ENFORCEMENT ASSISTANCE

The 1983 request for this appropriation is $18,514,000 and 118 positions, which is a decrease of 74 positions and $75,040,000 from the anticipated 1982 level. The major change in this request is the elimination of the Juvenile Justice programs in 1983. This decision reflects a belief that the major statutory requirements underlying these programs have been satisfied substantially and that further efforts with respect to individual projects are best controlled and funded at the state and local level.

Under this request, funding would continue to be available for the Public Safety Officers' Benefits program ($10,800,000) and for sufficient staff to

close out the Juvenile Justice and Law Enforcement Assistance Administration programs in a responsible manner.

RESEARCH AND STATISTICS

The National Institute of Justice and the Bureau of Justice Statistics comprise this appropriation. The 1983 request of $37,142,000 and 77 positions represents a decrease of 12 positions and an increase of $2,142,000 over the anticipated 1982 level. This change includes the elimination of 12 unfunded positions, uncontrollable increases of $1,710,000, and transfers of $432,000 from the Law Enforcement Assistance appropriation to consolidate unallocated administrative costs and to meet increased costs of statistical services provided by the Bureau of the Census.

INTERDEPARTMENTAL TRANSFERS

The Department's request also includes the proposed transfers of certain functions and associated resources from two other Cabinet-level Departments. From the Department of Education, the proposal for 1983 involves a transfer of $1,299,000 and 32 positions for litigation and enforcement activities previously conducted by the Office of Civil Rights.

A total of $20,248,000 and 333 positions is proposed for transfer from the Department of Energy under the proposed Federal Energy Reorganization Act of 1982. Of that total, $17,900,00 and 283 positions are associated with the compliance and hearings and appeals functions of the Department of Energy's petroleum regulatory compliance program; the remaining $2,348,000 and 50 positions would come from the general counsel and administrative support activities.

FREEZE ON FEDERAL SPENDING

Senator COCHRAN. Did you have any other comments or statements you would like to make? Please feel free to make whatever statements you would like.

Mr. SMITH. No; I really don't think I have anything to add.

Senator COCHRAN. I just have one quick question before you go. There has been a good deal of talk about putting a freeze on Federal spending at 1982 levels. That has been proposed here in the Senate. There are some over in the other body who are suggesting that.

What is your reaction to that in terms of impact that would have on the Department of Justice and its ability to carry out its functions?

Mr. SMITH. It would have a very severe impact on the Department of Justice because we are primarily people oriented. If we had a freeze placed upon our budget, this would involve the loss of many, many people, I guess several thousand. And so I think we would have to say, being as heavily people oriented as we are, that a freeze would have a very severe impact upon the Department of Justice.

ADDITIONAL COMMITTEE QUESTIONS

Senator COCHRAN. Thank you very much. We have other questions that we may also sumbmit to you in writing to which we would appreciate your response.

Mr. SMITH. Fine. I would be glad to respond.

Senator COCHRAN. Thank you very much for being before the committee today.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

1982 Funding Levels

For the record, please provide the Committee with details of the impact of maintaining FY 1982 funding levels for each agency within the Department. What adjustments would have to be made in programs and personnel in order to operate within 1982 appropriation levels?

I think this approach could be devastating. First, the continuing resolution excludes about $80 million of current pay raise costs for which we expect OMB to submit supplemental appropriation requests sometime in April. These costs, of course, carry forward into 1983. We have a number of other uncontrollable increases totalling $142 million which we must fund because many decisions have already been made elsewhere on how much will be charged for a number of services in 1983. Finally, the Administration is proposing that we take jurisdiction over $80 million of expenses for several functions being transferred from the Departments of Health and Human Services, Education and Energy.

Under such a proposal, we would have to cut law enforcement and other personnel intensive programs sharply. We would have to seek special consideration for transferred functions, and hope that the Congress would allow us to discontinue several major grant programs totalling $75 million.

Once again the Administration is recommending the termination of the Bankruptcy Trustee Program. As you know, there is rather strong feeling in some quarters of the Congress that the pilot program continue through at least the date when the authorization expires. Has the Department done an evaluation of the program? Is there any evidence that the program is not working as intended?

The Department has not conducted any formal, internal evaluation of the U.S. Trustee Program. The results of the evaluation to be done under contract by ABT Associates should be available in early 1983. Based on the results of ongoing management analyses by the staff of the Executive Office for U.S. Trustees and the assessment of the Director of the program, we believe that the Trustee Program is working as intended by Congress.

Immigration and Naturalization Service

The budget amendment submitted last year for the INS requested $35 million to construct a permanent detention facility. We included this amendment in the Senate version of H.R. 4169. At the time I stated my hope that the Justice Department would be able to provide us with details on the use of the construction funds by the time of a House-Senate conference.

Have you now identified a site for the construction of a permanent detention facility?

Six potential sites for a permanent detention facility have been reviewed. At present, an analysis is being made to determine

which one best meets the Service's requirements. It is estimated that a decision will be made in early April.

There are three sets of factors to consider in selecting the site for a permanent detention facility—site adequacy, operational compatibility and public/political acceptance. Assessing the adequacy of the site includes consideration of building size, drainage capabilities and proximity to highways. Determining the operational capability of the site involves assessing the proximity of the site to courts, schools, hospitals and other essential facilities. Final selection of a site will be based on its ability to meet these criteria as well as its acceptance in the community, both socially and politically.

Why has the Department not been able to make use of military facilities for this purpose?

The Department and INS have extensively explored the availability and applicability of existing bases with the Department of Defense (DOD). In fact, the Navy facility at Fort Allen, Puerto Rico, is presently being used as a Service Processing Center and the Krome site in Miami, Florida an ex-Nike base, has been modified to satisfy detention needs. All other proposed sites are either not applicable or not available from DOD's point of view.

Office of Special Investigations

The Office of Special Investigations is charged with a unique and important role to assist in identifying and prosecuting Nazi war criminals. I am told that questions have recently been raised concerning the appropriateness of this activity. I believe it is important for you to set the record straight with regard to the Administration's support for this program. What is your plan for the Office of Special Investigations? Do you intend to continue it at the same level of activity? And, what importance do you attach to its mission?

The Office of Special Investigations (OSI) is in the Criminal Division and the Assistant Attorney General, Criminal Division, has assigned it a priority second only to narcotics, organized crime, corruption, fraud and internal security. I fully support that priority and I am committed, as he is, to seeing that OSI continues its vigorous and professional prosecutions of Nazi war criminals. I believe this to be a necessary and important part of the Department's work and I respectfully disagree with those who believe that the funds allocated to OSI are disproportionate.

The Department's budget request for FY 1983 allocates 50 positions and $2.753 million to OSI. This amount is approximately one-tenth of one percent of the Department's FY 1983 request and yet it is the largest allocation in OSI's three year existence. It properly reflects OSI's active litigation docket (approximately 25 cases) and continuing investigations (approximately 200 matters).

Questions Submitted by Senator Dennis DeConcini

General Pricing Adjustment

The Department of Justice has included $29,952,000 for a general pricing level adjustment of seven percent for inflation in selected expense categories. However, the President's Budget is predicting only a 5.1 percent increase in the Consumer Price Index in 1983. Doesn't the Department believe in the President's Economic Recovery Program?

The General Pricing Level Adjustment (GPLA) was calculated on a 7 percent inflation factor, however the Department of Justice calculated GPLA differently than most, if not all, departments. The Justice Department applies it only to those objects of expense for which increases are not calculated in other ways. Generally, the factor applies to supplies, materials, equipment, contracts with the private sector, transportation costs and grants. In the case of most other departments the inflation factor is applied to the total base figure. The Department of Justice's request, exclusive of pay, is only 4.68 percent of the total base figure, and well under the precentage increase recommended in the President's Economic Recovery Program.

Drug Enforcement Administration

We seem to be going two different ways with regard to the budget presentations for the FBI and DEA. In the case of the FBI, we are asked to abolish 408 positions because you do not have the money to staff them; in the case of DEA, you are not cutting positions but are reducing staffing by 100 workyears. Are you setting us up to cut the DEA positions next year on the same basis you are cutting the FBI in 1983?

The reduction of 100 workyears in DEA's FY 1983 budget request will be allocated proportionally among DEA's programs and will not impact the agency's current operational capabilities. We do not intend to create a situation whereby a FY 1984 reduction in positions will be justified on the basis of a previous reduction in workyears. DEA should be in financially sound posture to fund its FY 1983 position level.

Violent Crime Initiatives

While we see and hear much about a program against violent crime, this budget does not give the appearance of much change. For instance, the 28,000 criminal cases expected to be terminated by the U.S. Attorneys in 1983 is the same as in 1982, and only 127 more than the number terminated by the previous Administration in 1980. In fact, the cases expected to be filed in 1983 are more than 1,000 under the level in 1980.

Are the workload figures on page 28 of your justifications correct, as they certainly do not sound like the kind of effort you described?

The workload figures found on page 28 are correct as indicated. Of course, the figures presented for FY 1982 and 1983 are estimates.

There is no method to forecast exactly the number of case filings and terminations which will be realized. These forecasts are simply intended to suggest that the volume of criminal cases to be handled by the U.S. Attorneys in the current year and next year will approximate the number of cases handled in the last two years. In addition, it is expected that new filings and terminations should about equal each other so that the backlog of pending cases does not grow.

As described by the Attorney General in his testimony, the Department of Justice is seeking to improve the overall effectiveness of criminal law enforcement by improving federal coordination with state and local jurisdictions. The most serious crime problems fall within the responsibility of state and local authorities. The emphasis of the Attorney General's program therefore is to support these authorities by directing the attention of federal agencies toward local priorities, by developing consistent prosecutorial policies, and by coordinating the conduct of individual cases. U.S. Attorneys are not expected to assume responsibility for more cases but to select and to conduct the cases for which they are responsible in a manner which is consistent with local law enforcement authorities.

There are an additional 63 workyears budgeted for Criminal Litigation in 1983. Why can't you terminate more cases in 1983 with the infusion of those additional workyears?

The number of positions devoted to criminal prosecutions is consistent throughout the period and small variations in employment will not necessarily have a discernible impact on the number of cases opened and closed in a given year. It is entirely conceivable for instance, that the work effort associated with a given case could be largely consumed in a fiscal year prior to the year in which the case is filed and terminated. In a recent study—"Allocation of Resources to U.S. Attorneys' Offices: A Case Weighting Approach" by Terence Dungworth and Jack Hausner under contract No. J-42662—more than 43 percent of the observed criminal cases had a "case-life" of more than 120 days and 16 percent had a case-life in excess of one year. The case-life includes time prior to filing when Assistant U.S. Attorneys are reviewing investigative reports and conducting grand jury proceedings. The availability of additional personnel in one year therefore, would not necessarily yield an increase in case filings and terminations in the same year.

The additional 63 workyears available in FY 1983 represents less than a three percent increase over the FY 1982 level. If an increase in employment were directly transferable to additional case filings and terminations, the increase would amount to less than 850 cases. Although some increase in caseload statistics may be realized in 1983, it is more likely that most of the impact will be reflected in the succeeding fiscal year.

Similarily there are expected to be 35 more workyears available for civil litigation but the terminations of civil cases remain the same?

As reflected in the caseload estimates found in the budget, the increase in workyears available for civil litigation is expected to permit the filing of 2,000 additional cases in FY 1983. An increase

in case terminations will not be realized until succeeding fiscal years.

Attack on Drug Trafficking

The President told the police chiefs in New Orleans that "one of the single most important steps that can lead to a significant reduction in crime is an effective attack on drug trafficking." What has been done to implement those words?

In recent months the Administration and Congress have taken significant steps to mount a more effective attack on drug trafficking. The passage of amendments to the Posse Comitatus legislation permits various capabilities of the military to be employed by Federal law enforcement agencies in pursuit of major drug smuggling organizations. Specific instances of assistance by the U.S. Air Force and the U.S. Navy have occurred recently and agreements are being finalized on ways in which various military resources can be used on a more routine or periodic basis.

Secondly, I have delegated the FBI concurrent jurisdiction over violations of the Controlled Substances Act. This action has already resulted in increased cooperative investigations between DEA and the FBI. The additional resources of the FBI and the increased effectiveness resulting from closer DEA/FBI coordination will result in a more successful effort against drug trafficking.

Thirdly, the passage of amendments to the Foreign Assistance Act will enable the U.S. Government, through the Department of State, to assist source countries in the use of herbicides to eradicate cannabis and other illicit crops. Reduction in the supply of illicit drugs is the most effective way of reducing drug trafficking and associated crime.

Fourthly, the Department of Justice has been working with Congress to develop legislative remedies to certain detrimental situations. Legislation has been introduced to strengthen federal bail and sentencing provisions and amend the Freedom of Information and Privacy Acts and the Tax Reform Act of 1976 which inhibits drug-related financial investigations.

Finally, there have been numerous operational and diplomatic successes in the recent years which have helped to control the availability of illicit drugs in the United States. In the Southeastern United States and the Caribbean Basin, Operations Grouper, Tiburon, Bancoshares, and Greenback were successful multi-agency efforts which have resulted in the arrests and indictment of hundreds of major defendants and in the seizure of millions of dollars of assets. Recent activity by the Government of Thailand in destroying the heroin conversion laboratories of the Shan United Army is related to the persistent efforts of the State Department's Bureau of International Narcotics Matters. DEA's foreign compliance program, focused on restricting large-scale diversion of pharmaceuticals, successfully persuaded Austria and Hungary to curtail methaqualone production and convinced the Federal Republic of Germany to impose stringent export/import controls on methaqualone.

The President promised a domestic policy that will more effectively coordinate narcotics efforts among Federal agencies as well as

those at the state and local level. This is not new, as in 1979 the Comptroller General recommended the preparation of an annual analysis of law enforcement along the U.S. - Mexican border as well as an integrated strategy and comprehensive plan for border control. Has any such analysis and plan been prepared by the Administration?

To my knowledge, no overall, comprehensive and annual analysis has been prepared. However, five major steps have been taken to assure more effective coordination of narcotics law enforcement efforts.

To improve coordination among Federal Departments the President has formed the Cabinet Council on Legal Policy. This Council has the charter to focus on three areas: narcotics, civil rights, and immigration. I will present to the Cabinet Council my thoughts on narcotics coordination this month.

To improve coordination within the Department of Justice, I have created a committee that will oversee the development of drug policy and assure that all the Department's resources, including its prosecutorial and correctional efforts, are effectively engaged in the effort against drug trafficking.

Acting on the recommendation of a special Department of Justice committee, I granted the FBI concurrent jurisdiction over Controlled Substances Act (CSA) violations and ensured coordination between DEA and the FBI by having the Administrator of DEA report to me through the Director of the FBI.

Greater coordination with prosecutors and state and local officials was assured when, acting on a recommendation from my Violent Crime Task Force, I formed Law Enforcement Coordinating Committees in each judicial district.

The El Paso Intelligence Center (EPIC) is an interagency operation supported by most Federal Law Enforcement agencies. EPIC has working agreements with 46 States and the Virgin Islands and is a major contributor to effective law enforcement coordination. This coordination will be further enhanced by the increased military assistance permitted by the enactment of the Department of Defense Authorization Act of 1982.

In addition to the policy initiatives and coordinating bodies described herein major coordinated efforts have been undertaken to reduce the availability of illicit drugs in the U.S. Operation Tiburon was a concerted DEA, Customs, and Coast Guard effort to interdict marijuana and cocaine transitting the Caribbean. Recently, the Vice President announced the formation of a major task force in Florida to shore up the vulnerability to drug smuggling in the Southeastern United States. The U.S. Customs Service will deploy 130 agents in Florida, the FBI will send over 40, and the DEA will assign 20 agents on a permanent basis and send more than twice that many on temporary assignment to ensure proper coordination in this effort. This effort is expected to deal a serious blow to the drug trafficking organizations and associated criminal activity in Florida.

How do we strengthen our fight on narcotics traffickers by taking 100 workyears away from DEA? Certainly, we can hope for greater efficiency by their new link with the FBI, but don't we have more than enough work to do in narcotics to retain those 100 workyears?

The reduction of 100 workyears will not impact on DEA's current capability to carry out its mission. The workyears targetted are primarily support operations. The reductions will be accomplished through a general tightening up in these activities. Agent strength is not to be reduced.

In your statement you mention the new help you are receiving from the Navy and Air Force. What about the Coast Guard--don't they have to be a vital part of any effort to interdict drug smugglers?

The U.S. Coast Guard is a vital part of the government's anti-drug smuggling efforts. Under the authority vested in them by Congress, they interdict vessels carrying illicit drugs destined for the United States.

DEA and the Coast Guard have actively worked together since 1974. On March 28, 1978, an Interagency Memorandum of Understanding was signed and has been the basis for their cooperative activities.

In 1974, in Operation Buccaneer in Jamaica, intelligence supplied by DEA to the Coast Guard was the basis for intercepting vessels suspected of being used in marijuana smuggling.

In 1978, in Operation Stop Gap, the collective capabilities of DEA, the Customs Service and the Coast Guard were expanded. DEA provided the foreign drug trafficking intelligence, the Coast Guard covered the passages exiting the Caribbean, and Customs provided interdiction efforts in the Southeast United States.

In 1981 and 1982, in Operation Tiburon an even greater commitment was made to the interdiction effort with a much enhanced intelligence and coordination capability of DEA, the Customs Service, and the Coast Guard in northern Columbia, throughout the Caribbean and at the El Paso Intelligence Center (EPIC). As of March 15, 1982, Operation Tiburon and its follow-on, Operation Trampa, have resulted in the seizure of over 100 smuggling vessels and over 1 1/2 million pounds of marijuana in DEA/Coast Guard cooperative actions.

Courtroom Security

In your statement you mention your meeting with the Chief Justice to discuss courtroom security.

Have the standard risk indications been established, and will they satisfy the Judiciary as to adequacy of security in the courtroom?

Standardized risk indicators for the assignment of Deputy U.S. Marshals to federal courtroom proceedings are being proposed to the Judiciary. Department of Justice staff and the U.S. Marshals Service will be presenting and explaining the standard risk indicator method of assigning personnel in the courts, to the Administrative Office of the U.S. Courts various Judicial Conferences, Judicial Centers, and to members of the Judiciary.

The Marshals Service anticipates a 20 percent increase in threats on the Judiciary in 1983 compared to 1982. How can they cope with such an increase when the resources allocated for 1983 remains constant and is 60 less workyears than actually used in 1981 for security in the courtrooms?

As workyears decrease, the ability of the U.S. Marshals Service to provide appropriate 24 hour protection to threatened judges and prosecutors decreases proportionately. The U.S. Marshals Service will prioritize and concentrate its available resources on those situations of a more serious nature based on the assessment of each threat.

At last year's hearings the Marshals Service provided tables that indicated that the creation of the 117 additional district judges has been inversely matched by a reduction of 175 Marshals in the districts. In South Carolina, for instance, they gained five additional judicial officers between 1978 and 1981, with no change in the Marshals.

What workload analysis has the Department conducted of the impact of the additional judgeships on the Marshals Service?

The Marshals Service has analyzed the ratio of operational positions to judicial officials which reflects a steady decrease as follows:

	1979	1980	1981	Est. 1982	Est. 1983
Total judicial officials	926	1,322	1,605	1,605	1,677
Number of full-time U.S. Marshal positions	1,845	1,956	1,728	1,642	1,592
Ratio of U.S. Marshal positions per judicial officials	2.0	1.5	1.1	1.0	.9

Corrections

You mention in your statement a program to turn over surplus Federal property to states for use as prisons and jails. How successful have you been in transferring such property to the states?

In August of 1981 I established in the Federal Prison System a Clearinghouse to assist states and localities in their efforts to acquire Federal surplus property for correctional use. As of March 1, 1982 the Clearinghouse has handled over 140 inquiries concerning the availability of surplus property. Federal properties that have been turned over to states and localities for correctional use include:

A former Air Force Station at Watertown, New York;
A former Air Force Station at Lockport, New York; and
A tract of land has been turned over to Douglas County Nevada, for construction of a jail.

Negotiations are underway for turning over the following properties:

A military prison at Fort Dix, New Jersey; and
A former Missile Site at Florida City, Florida

We fully expect additional properties will be turned over to state and local correctional systems in the future.

Our most recent reports indicate that Federal prisons are operating more than 17% over capacity. Before this property is transferred to the states, are you first checking with the Bureau of Prisons as to their requirements?

Federal properties are first identified as excess to a particular agency's need. Federal agencies, including the Federal Prison System, are given the opportunity to screen excess property to see if it meets their needs. If the excess property is not needed by any Federal agency, it is then identified as surplus to Federal needs and states and localities are given an opportunity to determine if they have a need for the property. By following this procedure the Bureau of Prisons can check their requirements prior to the property being made available to state and local governments.

It is now intended that Atlanta remain operational instead of closing in 1984. Over the last few years, Atlanta has been phased-down from a maximum security facility to a low security institution. How do you operate Atlanta, and does the Bureau have sufficient personnel to staff Atlanta on a continuing basis?

Due to the current level of overcrowding and the continuing requirement to house Cuban detainees within the Federal Prison System (FPS), I requested Congressional concurrence with our decision to cancel the planned closing of the penitentiary at Atlanta, Georgia. Currently, the Atlanta penitentiary is the principal FPS facility housing approximately 1,400 out of a total of 1,600 Cuban detainees. Atlanta has been designated an administrative facility housing offenders with security levels ranging from 1 through 6. As you know, the FPS began the phase-down of the Atlanta Penitentiary in FY 1981 reducing their budget by 142 positions and $2,482,000. The Atlanta penitentiary has 413 staff which is sufficient to operate the institution at its current mission. Many of the positions were reprogrammed from other FPS facilities.

U.S. Parole Commission

Was there a workload study that determined that the Commission could accomplish the same workload in 1983 as expected in 1982, with 15 fewer positions?

No, we are in the process now of studying our staffing patterns to determine necessary actions to meet this goal.

In 1982 the Commission has 172 permanent positions that will amount to 163 workyears. In 1983 they are budgeted for 15 fewer positions and expect to have all 157 of them filled throughout the year. Is full employment of the permanent positions attainable?

Not really, however the lapse expected is closer to zero than anything else. In a normal year our attrition rate is somewhere between 2 and 5 percent. Next year we expect it to be lower than

that due to the unemployment rate and the fact that there will be fewer federal jobs.

Questions Submitted by Senator Dale Bumpers

State & Local Drug Grant Program

In your budget justification for FY 1983, the 1983 base for the State and Local Drug Grant Program is $6,000,000, and your budget proposed that this program be discontinued at the federal level.

For FY 1982, how much money is being spent on this program and how many persons are involved (including administrative personnel)?

It should be noted at the outset that the term "State and Local Drug Grant Program" is a misnomer carried forward from the FY 1982 House Appropriations Committee report. In fact, the funds support Multi-State Regional Intelligence Systems, some of which focus on illegal drug and narcotic trafficking. Other projects deal primarily with robbery, burglary, cattle rustling, and the full range of criminal activity including one system which assigned a top priority to "motorcycle gangs". The current Continuing Resolution for 1982 provides an annual amount of $5,700,000 for the program. The projects currently employ 184 individuals.

Other than the reasons set out in the justifications, are there other reasons for the proposed termination of this program?

The Department of Justice has no objection to the concept of state and local governments exchanging intelligence information for the purpose of enhancing their own law enforcement efforts. The Department does object, however, to the imposition of an oversight role over projects that it has no effective means of supervising and which are properly within the province of state and local law enforcement. As these programs have developed, the Department has grown increasingly skeptical about their cost effectiveness, their protection of individual privacy rights, and their stewardship of Federal funds.

The Department has frequently questioned the track record of the Multi-State Regional Intelligence Projects. Intelligence projects in themselves do not produce arrests by law enforcement officials. They simply provide data that help others take action. Therefore, claims of success tend to overemphasize their role and to minimize the costs involved in identifying and apprehending criminals. Preliminary data developed in a national evaluation of the system, for example, shows that 1,963 arrests resulted from investigations assisted by four of the systems since 1977 and assigns dollar values to items seized or recovered in connection with these investigations. The extent to which the assistance provided by the multi-state systems was instrumental in the arrests or recovery of property could vary significantly from case to case.

We are more concerned, however, about the way some of these projects have been administered. The Department, for example, found that the financial records of the Rocky Mountain Information Network (RMIN) were in such disarray that they required reconstruction to see how much had been spent. Financial irregularities have been

noted in another project where the chairman of the policy board resigned amid allegations of misuse of state funds. Further, the Department's Audit Staff indicates that for the Regional Organized Crime Information Center (ROCIC), unsworn officers may have engaged in investigative activities, a violation of the terms of the grant.

Paramount to all of the concerns, however, is a recognition of the fiscal realities which demand that the Department concentrate available resources toward the achievement of its primary mission, the enforcement of Federal laws. With decreasing resource levels for most Federal law enforcement agencies, the Administration has recognized that an equal amount invested in other law enforcement programs would have a greater utility in relation to Federal law enforcement responsibilities than an equal investment in the regional intelligence projects.

It is the Department's view that, if the participating jurisdictions are convinced of the efficacy of the regional intelligence projects, they should supply the necessary funds and accept responsibility for compliance with the principles of sound management and the protection of individual rights.

Since this program has been in existence, has it been a cost effective law enforcement operation or do you feel that the money could have been spent more efficiently in other areas? How many arrests have been made and how many convictions have been obtained in the life of this program? What entity is the prime beneficiary of the information gathered, state and local governments or the Federal Government?

As indicated previously, the Department does not believe there is convincing evidence of the cost effectiveness of the projects. Moreover, in testimony before a House subcommittee last year, a DEA representative made it clear that he would rather have the funds to assist states through DEA's State and Local Task Forces. And, in a letter of May 4, 1981, to the Senate Appropriations Committee, I noted that "an equal amount invested in any of the Department's law enforcement programs nets a greater return than would be realized from investing the same amount in these projects. Furthermore, there is no evidence that these projects have had a greater impact on crime than many other programs....which Congress has already decided to terminate". The anecdotal data generally supplied by the project directors is hardly convincing evidence that federal taxpayers have received a favorable return on their investments. Because the function of these projects is to facilitate the exchange of intelligence information rather than to participate directly in the apprehension of criminals, there is no accurate means to determine the number of arrests or convictions which are attributable to the systems. In some instances, the systems may provide information which corroborates information obtained from other sources; in others the intelligence data supplied by the systems may be crucial to an investigation. The tendency, of course, is for project personnel to take credit for all successful investigations in which they participate.

The primary beneficiaries of the information gathered and disseminated by the projects are the participating state and local law enforcement agencies. It should be noted that many enforcement agencies (police departments, sheriffs, state police bureaus, etc.) within a region do not participate in the intelligence system.

What person or organization decides when an investigation should be commenced and who should be the target of the investigation?

Such decisions are made by the individual state or local law enenforcement agencies.

Once the decision is made to begin an investigation, is there any review of this decision within the Department of Justice by officials here in Washington?

Generally speaking, the decisions made by state and local officials to conduct investigations which are supported by these projects are not reviewed by Justice Department officials in Washington. The only case that is somewhat of an exception concerns investigations that may be undertaken within the region covered by Project Leviticus. For certain types of cases within this project, close coordination is encouraged between Leviticus officials and representatives of the Department's Criminal Division. This sharing of information allows a determination to be made as to whether a case is already being pursued under federal jurisdiction. In no other operations of the multi-state regional projects is there any similar review by Justice Department officials here in Washington.

Prior to the commencement of an investigation, what contact, if any is made with state and local law enforcement officials? Are they made aware of the investigation, told the focus of it and allowed to provide information and participate?

Decisions to undertake an investigation originate with state and local law enforcement officials who may then call upon the regional intelligence systems for information and assistance. Moreover, in the instance of ROCIC, the Grant Award clearly specifies the limits on investigative activities. Special Condition ten of the Grant Award states that:

> Grantees agree that ROCIC field agents, field agent supervisors and headquarters personnel who are un-sworn nongovernmental personnel shall confine their duties to liaison with and support of member agencies. Such liaison and support activities include dissemination of information collected by member agencies to other agencies requesting the information; providing fixed site technical assistance to member agencies; and assisting in the completion of required reports and evaluations.
>
> Grantees agree that so long as ROCIC personnel are un-sworn nongovernmental personnel, they will not participate in any of the following investigative functions;
>
> -Handling informants (including paying informants; briefing or debriefing informants)
> -Participation in any fixed or mobile surveillance (including providing fixed or mobile radio coordination)
> -Participation in any other investigative activity (including collection of new intelligence from overt or covert sources; purchase of evidence; and undercover operations, such as drug buys or sting operations)
>
> Nothing in the foregoing shall prohibit ROCIC personnel from participating in the briefing or debriefing of an informant where (a) the participation is at the specific request of a member agency, confirmed in writing and submitted to ROCIC Head-

quarters within 48 hours; and (b) the participation occurs in the presence of a sworn officer of the member agency."

A memorandum from the Administrator of DEA and the Assistant Attorney General for the Criminal Division dated September 15, 1980, further defined permitted grantee activities and stated, in part, that:

"ROCIC field agents, field agent supervisors, and headquarters personnel may perform investigative functions when the ROCIC employee is acting within the territory of a jurisdiction in which he is a sworn peace officer. A ROCIC employee is prohibited from performing any investigative function in a jurisdiction where he is not a sworn peace officer, except at the request of and in the physical presence of a sworn officer from a governmental law enforcement agency having jurisdiction in that territory."

Unfortunately, there is evidence that ROCIC has failed to comply with the requirements described above. Efforts at resolution of that issue are currently underway.

What person or persons are in charge of and oversee investigations by the recipients of these drug grant funds? Is there any on-going review by officials of the Department of the investigation once it is underway?

Investigations are under the control of the state and local law enforcement agencies of the jurisdictions involved. There is no on-going review by the Department, nor does the Department have the means to provide any day-to-day monitoring of the projects.

Under the current program, are the states which make up the regional networks required to contribute any money for investigations?

The basic costs of criminal investigations are borne by the state or local governments involved. The costs of the regional intelligence systems, however, are in addition to the direct costs. The systems are funded entirely by federal funds, except for a small membership fee charged by ROCIC Board of Directors. The "states which make up the regional networks" are not required to contribute to the funding of the regional systems. Indeed, not all state governments participate in the systems although some of the local jurisdictions within the states do. It is possible, for example, for no Oklahoma state law enforcement agency to participate in ROCIC while one or more of Oklahoma's municipal police departments are active members.

GAO Report on Regional Networks

The General Accounting Office in a report (#GGC-81-36) released on December 31, 1980, on these regional projects concluded that:

"As long as the regional networks require federal funding to continue operations, the Department of Justice needs to provide guidance for and monitor the collection and exchange of intelligence information to protect individual privacy and constitution rights. Also, the Department of Justice needs to define the networks' role in the intergovernmental law enforcement commun-

ity to enhance their relationship with federal agencies pursuing similar criminal offenders," (at page 22).

In light of these conclusions by GAO, have these recommendations been implemented and, if not, why have they not been put into place?

These projects raise an unusually difficult problem with respect to the protection of privacy in that they must, by their very nature, deal with unsubstantiated information and in that judgments must be made about to whom such data are to be given. Each state must necessarily be the judge of what intelligence information will be provided to other law enforcement jurisdictions, either directly or through the Multi-State Regional Intelligence Projects, but once such data are exchanged there must be assurance that it will not be put to improper use. Although the various grants stipulate how information is to be guarded, the Department of Justice has repeatedly indicated that it is not equipped to provide any day-to-day operational oversight of these projects. The Department expressed its concern about privacy in its May 27 letter to the House Committee on Government Operations by providing comments on the GAO report when we stated: "Based on our review of the report, it is our concern that it does not adequately address the area of individual privacy. We believe it should have been covered as a major issue area. It is our understanding that this issue was also a major Congressional concern." However, when the Subcommittee on Government Information and Individual Rights held two days of hearings on these projects, there was almost no discussion on this crucial subject.

It is the Department's opinion that, if federal dollars are utilized to support these projects, federal privacy standards must apply. But the ability to enforce such standards under a grant vehicle is extremely difficult. The Federal Government does not have and should not have any general authority over state and local law enforcement officials; however, Sec. 818(c) of the Justice System Improvement Act of 1979 requires OJARS to develop and implement policy standards for criminal intelligence systems operating with funding under this legislation. To require the Federal Government to develop and implement such standards and to enforce them only through a legal vehicle as loose as a grant is potentially explosive. It is unreasonable to expect the Federal Government to apply its privacy standards to the intelligence operations state and local officials may sponsor. More federal involvement through funding raises the critical question of the adequacy of control in these projects and the potential for abuse alone is sufficient to challenge the wisdom of continued federal involvement.

As noted earlier, the Federal Government does not have any general authority over state and local law enforcement. Moreover, the multi-state systems consist of, and are designed to serve state and local enforcement agencies. It would therefore be highly inappropriate for the Department to "define the networks' role in the intergovernmental law enforcement community....." Responding to the GAO report, the Department said: "Although it is appropriate that these projects to interact with federal law enforcement agencies, it must be recognized as paramount that each of these projects has been designed to serve the needs of state and local operating agencies within their areas." It should be noted, however, that to

the extent general oversight can be exercised by the Department, it has continue to be provided by the Intelligence Systems Policy Review Board.

What body or persons have oversight responsibility for these regional networks? How often are audits performed?

General policy oversight is exercised by the Department's Intelligence Systems Policy Review Board. Routine grant monitoring is provided by the Criminal Conspiracies Division of LEAA. Audits of the grants are performed annually by the Department's Audit Staff.

Is there any duplication of effort between these regional centers and other State and Federal Intelligence gathering operations?

Most state law enforcement agencies and larger municipal police and sheriffs' departments maintain an intelligence gathering capability. They may vary widely in levels of sophistication and technology, however. DEA maintains the El Paso Intelligence Center (EPIC), an intelligence information to states. DEA has agreements with 40 states for participation in the EPIC system.

Questions Submitted by Senator Arlen Specter

Adoption of Recommendations of the Attorney General's Task Force on Violent Crime

The Attorney General's Task Force commented that the National Institute of Justice (NIJ) and the National Institute of Corrections "do not have the funds needed to support the substantial testing, demonstration, and independent evaluation" necessary and went on to observe:

> *The Attorney General should ensure that adequate funds are available to these agencies to bring research ideas to the stage at which they become demonstrated, independently evaluated programs that can be implemented in state and local jurisdictions.*

What funds have been requested in FY 1983 to bring the fruits of research by NIC and NIJ to state and local jurisdictions? Are such funds sufficient?

National Institute of Corrections (NIC). The policy/program development and evaluation (research and evaluation) element in the National Institute of Corrections program supports applied research and program evaluation of correctional activity. This element is the only means by which NIC is able to formulate future policy because the training, technical assistance and clearinghouse service elements support a more immediate and operational response to state and local correctional agencies' requests. Of the total funding request for NIC in 1983 ($11,054,000), the amount allocated for the research and evaluation element ($1,450,000 or 13 percent) will fund five projects. These projects are: differential incarceration, prison overcrowding, state and local probation, mental illness and retardation, and prison industries.

Specifically, differential incarceration is the only pure research project planned for FY 1983. It constitutes approximately ten percent or $150,000 of the total funding for the research and evaluation element. Generally, the project is a two year study of the extent to which differential processing of minorities may exist in decision making from court to prison through release; an indepth analysis and description of the processes that lead to imprisonment, the differential treatment and services for minorities and non-minorities within correctional programs; and the development of hypotheses and approaches for changing unfair differential handling issues. The requested 1983 resource level for the project will enable NIC to fund the second year of the study which involves the development of policy options and issues for use by correctional administrators for redress. Although the remaining three projects are not research related, the primary objective of the endeavors is to assist state and local jurisdictions in effectively addressing major correctional issues and identifying alternatives for the effective utilization of scarce resources.

National Institute of Justice (NIJ). The programs responsive to the National Institute of Justice's legislative mandate to disseminate newly emerging research findings are located in NIJ's Office of Development, Testing and Dissemination. Although the current fiscal realities preclude funding the wide scale demonstrations of research concepts supported for the last few years under LEAA funds, the Department feels that the Institute has found effective and cost efficient ways to disseminate research concepts of proven effectiveness. In FY 1983, approximately $4.5 million out of a total of $17.4 million will be spent on the Institute's dissemination activities.

The Institute's Field Test Program, a cornerstone in its applied research effort, tests basic research concepts in multiple operational settings under carefully controlled conditions. All field tests are independently evaluated under grants from the Institute's Office of Program Evaluation. Currently, eight field tests are underway. In FY 1983, NIJ will have sufficient funds to mount one field test in a minimum of two and possibly three jurisdictions depending on the nature of the test and the cost of implementation at individual sites. Although LEAA demonstration programs will no longer be available as a dissemination vehicle for field test findings, the Institute will still develop program designs for publication and wide dissemination as findings become available.

Under this program the Institute develops training packages for sale to state/local jurisdictions and conducts workshops for local and state officials on request in topic areas of interest. Materials are prepared from newly emerging research findings and reflect state-of-the-art operational techniques. Current topics include: Improving Police Management, Police Cost Analysis, Reducing Non-Stranger Violence, and Cutback Management.

This program includes both the identification of state and local programs of proven effectiveness and the identification and assessment of programs that show promise in terms of responding to national concerns about a specific criminal justice problem. Currently this initiative seeks to identify, assess and publicize effective projects to combat violent crime and the violent offender. The Institute will assess and document existing and emerging techniques and will publish state-of-the-art information for the field.

The Institute will continue its development and dissemination of standards for criminal justice equipment for the benefit of state and local law enforcement agencies. Current publications under this program include materials on bulletproof vests, high speed pursuit tires, and hand held transistors to name a few.

The Institute will continue its support of the National Criminal Justice Reference Service, the national and international clearinghouse for criminal justice information, as mandated in the Justice Systems Improvement Act of 1979. The Reference Service also performs clearinghouse services for other DOJ agencies including NIC and BJS, and disseminates both government documents and documents from independent sources to over 40,000 users. A cost recovery program was begun in FY 1982 in keeping with current OMB directives.

National Institute of Juvenile Justice and Delinquency Prevention

What budget authority for FY 1983 did the Department request for the research efforts of the National Institute of Juvenile Justice and Delinquency Prevention (NIJJDP)?

Nothing was requested.

What budget authority is being requested in FY 1983 for testing, evaluating, and demonstrating the research of NIJJDP?

Nothing was requested.

What budget authority is being requested in FY 1983 for implementing the research projects of NIJJDP?

Nothing was requested.

Task Force on Violent Crime Conclusions

The Attorney General's Task Force concluded its commentary on the federal financial assistance recommendation by noting:

> *With limited funding, directed toward supporting only those programs of demonstrated value, we believe the Federal Government can work with states and localities in an appropriate form to reduce and prevent serious crime in an effective and efficient manner.*

Does the Department accept this concept of states, localities and the Federal Government being drawn into such a cooperative relationship which the report termed a "partnership," to support selected programs and initiatives against violent crime?

The Department strongly supports a concept of a cooperative relationship with state and local law enforcement. Indeed, all U.S. Attorneys have been directed to establish Law Enforcement Coordinating Committees to, among other things, identify the committees' most important crime problems upon which federal resources can have an impact and to coordinate the efforts of the various governmental levels in law enforcement activities. The Department has

also proposed expansion of the federal concurrent jurisdiction over violent crime or conduct directly related to violent crime, in order to relieve a portion of the burden otherwise borne by state and local enforcement officials.

The Attorney General's Task Force commented that some programs supported and developed by the Federal Government over the past decade "have a direct effect on serious crime." Does the Department adopt this position?

There is a considerable body of evidence which indicates the success of various projects implemented with federal assistance. Moreover, the Department has continued its support for research, development, demonstration and evaluation of methods to prevent and reduce crime. We believe, however, that funding for improvements in state and local criminal justice systems is principally the responsibility of state and local governments.

Please detail by amount requested, unit of organization and specific project the Department's requests for FY 1983 budget authority for the implementation of programs of proven effectiveness in the reduction and prevention of crime at the state and local level.

Due to fiscal constraints the 1983 budget does not contain any funds to implement programs at the state and local level. The Department believes that projects of proven merit should be funded through state and local resources.

Do federally funded criminal justice research and statistic efforts make good sense if the programs they suggest are not implemented?

Research and statistical efforts take years from development of an idea to the completion of research or collection and analysis of data. The centralization of these efforts at the federal level is more efficient and effective than to expect local jurisdictions to foster research. Research and statistical efforts on national problems have historically been accepted as a proper role for the Federal Government. Research must be done to provide the criminal justice community with information about new knowledge, successful approaches and cost effective changes. Through the dissemination efforts of the National Institute of Justice this information will reach the practitioners in the criminal justice community. Even though federal funds are not available to assist state and local governments to implement such changes we know from past experience that information will be used and many changes made by state and local units of government.

Statistics is another area where the Federal Government has a unique role and responsibility. Policymakers and practitioners at all levels of government have a need for objective, reliable and accurate statistics on crime, its victims and its perpetrators, and on the operation of the criminal justice system. A comprehensive statistics program is a prerequisite for decisionmaking and program development.

Interagency Task Force on Florida

In January the President designated an interagency task force on serious problems facing the State of Florida from its refugee

immigration, crime and drug trafficking. What is the progress of the task force?

Under the auspices of the Vice President's Office, an on-site coordinator, Charles F. Rinkevich, has been assigned to the Florida effort and steps have been taken to increase significantly the levels of cooperation among the federal agencies (FBI, DEA, Customs Service, etc.) and between these organizations and the local law enforcement community. In addition, the number of federal personnel assigned to the area has been increased.

Do you anticipate making a special application for emergency or disaster funding to assist Florida?

The Administration is currently in the process of reviewing the need for additional funding of an emergency nature. This would include any requirements related to the South Florida Task Force on violent crime and narcotics trafficking.

Juvenile Justice

The 1980 Amendments to the Juvenile Justice and Delinquency Prevention Act added an express emphasis on serious juvenile offenders. How is no request for FY 1983 budget authority consistent with the Department's responsibilities in this regard?

The 1980 Amendments to the Juvenile Justice and Delinquency Prevention Act have been implemented, in part, with FY 1981 and 1982 funds. The Administration views funding activities related to juvenile justice and serious juvenile offenders as the responsibility of state and local governments.

In light of the involvement of juveniles in serious and violent crime and the purposes of the Juvenile Justice and Delinquency Prevention Act how is a zero request for FY 1983 budget authority consistent with the Department's efforts against violent and serious crime?

The Department views direct funding support of efforts against violent and serious crime as the responsibility of state and local governments. The Department is providing technical assistance and training through the FBI to assist local agencies in their efforts.

What budget authority is being requested in FY 1983 for testing neighborhood-based prevention strategies in accordance with demonstrating, evaluating and implementing the Violent Offender Research and Development Program?

Nothing has been requested.

What budget authority is being requested in FY 1983 for training judges, prosecutors, attorneys and administrators with regard to juvenile justice legal issues, procedures or sentencing alternatives?

Nothing has been requested.

What budget authority is being requested in FY 1983 for developing and supporting standards for the administration of juvenile justice at the federal, state or local levels?

Nothing has been requested.

Please supply for the record a listing and description of activities to be funded and the amount to be devoted to each project in (a) juvenile justice special emphasis prevention and treatment programs, and (b) NIJJDP.

Special Emphasis Fund Allocations -- Assuming that final appropriation action is consistent with the Continuing Resolution, the Special Emphasis appropriation for FY 1982 will be $14,365,000.

Of this figure, allocations reflecting 1982 priorities will be set as follows:

• Section 224(e) statutory territories allocation in accord with criteria published at 47 FR 4626 (Feb. 1, 1981).....	$718,250
• Special emphasis program evaluations for New Pride, Restitution, Alternative Education, Youth Advocacy, Violent Offender Part I and Part II.....	$1,545,000
• Prevention R&D program (continuation of single project).....	800,000
• New Pride completion.....	2,500,000
• Alternative education completion.....	2,775,000
• Youth advocacy completion.....	2,926,000
• Serious and violent offender training program.....	2,000,000
• Public safety emergency or legal commitments.....	1,100,750
Total.....	14,365,000

Research and Related Activities of the National Institute for Juvenile Justice and Delinquency Prevention — Research and program development activities for FY 1982 have a tentative appropriation of $7.4 million and will consist of continuations of fifteen projects begun in past years at a reduced level of funding ranging to 33 percent. Twenty projects have or will be ending and will not receive 1982 funds. Evaluations of four major Special Emphasis programs are expected to be continued primarily from Special Emphasis funds in order to complete the analysis of the impact of these approaches for preventing and controlling delinquency. These include Restitution, Replication of Project New Pride, Alternative Education and Youth Advocacy. The Law Related Education Program will be continued from Institute fund sources. Seven research and development projects are expected to be continued, including studies of the development of delinquent careers, research on alternative programs for juvenile offenders, and projects focused on prevention of juvenile delinquency. In addition, three national data collection projects are scheduled for continuation. These include national juvenile court statistics, national data on children in custody,

and the development of automated juvenile justice information systems. Activities designed to assist state or local governments in consideration of juvenile justice standards will be continued and modified to include state and local based projects.

Primary emphasis will be placed on expanding the program of research and development on serious and violent juvenile crime. Projects begun in previous years which focus on monitoring the extent of juvenile involvement in serious and violent crime, prevention of serious and violent juvenile crime, and the development of alternative programs for serious and violent juvenile offenders will be continued. In addition, several new projects are planned to expand efforts in four areas: (1) chronic juvenile offenders, (2) improvement of violence prediction capabilities, (3) juvenile justice system response, and (4) programs designed to ensure swift and certain prosecution and punishment of serious and violent juvenile offenders. These will include studies designed to identify the chronic juvenile offender and factors related to the initiation and continuation of serious delinquent and criminal careers, research on the effects of juvenile criminal court processing of serious and violent juvenile offenders, and the development and testing of programs to improve the efficiency and effectiveness of juvenile justice system prosecution and treatment of these offenders.

In the absence of an Administrator for the Office of Juvenile Justice and Delinquency Prevention, who is exercising the Director's grant and policy authority?

Mr. Charles Lauer is the Acting Administrator for the Office of Juvenile Justice and Delinquency Prevention.

What limitations, if any, on the exercise of such policy is present with only an Acting Director and not a presidential appointee?

The Acting Director exercises the same grant and policy authority, under appropriate delegations of authority, as would be exercised by a presidential appointee.

Questions Submitted by Senator Lawton Chiles

South Florida Task Force

Last month the President appointed a Task Force headed by the Vice President to address the crime and immigration crisis in South Florida. In Miami, Vice President Bush outlined a plan that would bring some relief to that area. One aspect of that plan involved work with you to obtain more federal judges and courtrooms in South Florida. Could you report on the status of this project, and tell the Committee when we can expect to see more federal judges in Miami?

Currently there are two visiting district court judges serving in Miami. Two more visiting judges are scheduled to begin serving June 1, for a total of four visiting judges who will then be augmenting a permanent complement of 12 judgeships. Legislation now before the Congress--H.R. 2645--would increase by one the number of permanent judgeships authorized for the Southern District of Florida. Furthermore the U.S. Judicial Conference has recommended an increase of three more judgeships in addition to the one additional judgeship proposed in H.R. 2645.

The U.S. Attorneys office has been authorized to increase its staffing level from 50 attorneys to 65 attorneys. What is the status of filling these new authorized positions? When will staffing be completed?

As of March 20, all but five of the 65 Assistant U.S. Attorney positions allocated to the Southern District of Florida were filled. A new U.S. Attorney was appointed March 22, and the recruitment of the best available attorneys to the remaining vacancies is among the new U.S. Attorney's highest priorities.

What criteria would be used to determine whether further staffing increases in the U.S. Attorney's office will be needed?

No additional positions have been requested for the U.S. Attorney overall so any additional positions assigned to the Southern District of Florida would have to be offset by corresponding reductions in other U.S. Attorney offices. Such decisions would depend on a comparative analysis of judicial capacity, a quantitative and qualitative analysis of the caseload, an examination of investigative agency resources, and a review of any peculiar geographic or demographic factors affecting the conduct of litigation in the Southern District of Florida.

U.S. Marshals Service Hiring Freeze

In a recent article in the Miami Herald, Admiral Dan Murphy, the Vice President's chief of staff for his federal Task Force on South Florida Crime, was quoted as saying, "The only thing I can see that we will add to our thinking is that we might have to look at the U.S Marshals more than I was aware before." That is good news; U.S. Marshals play an essential part in our law enforcement effort. However, there is presently a hiring freeze in place in the U.S. Marshals Office. In fact, the U.S. Marshals Office, which had 2,402 positions in 1980, will be reduced to 2,018 positions by 1983. That represents a 16 percent reduction in force for this Office over a three year period. Does the Attorney General foresee a lifting of the hiring freeze on the U.S. Marshal's offices?

The reduction-in-force impacting Deputy Marshals in the District of Columbia was terminated January 12, 1982. However, the Service will have to continue the freeze on employment which began in 1980, and a redistribution of available manpower may be required to assist districts that lose more than their share through attrition. The Marshals Service will be reviewing district employment regularly to assure that sufficient numbers of personnel are available where needed.

One of the most important missions of the Drug Enforcement Administration is to work overseas with the governments of countries where illicit drugs are grown to establish drug crop eradication programs. Several months ago, Congress lifted the restriction which prohibits U.S. foreign assistance funds from being used for these drug eradication programs. Yet the Administration is not proposing any increases in foreign assistance for these eradication programs. What are your thoughts on the effectiveness of crop eradication programs?

What role does DEA and the Justice Department play in these international efforts to eradicate drug crops?

What are your thoughts on directing more foreign assistance funds to be used for overseas drug eradication programs as a way to stop the flow of drugs into the United States?

Eradication of drug cultivation, when combined with viable enforcement and crop income substitution programs, is one of the most effective and efficient ways to reduce the amounts of drugs available to illicit markets. For example, at one time Mexico supplied up to 85 percent of the heroin consumed in the United States. It was not until Mexico launched a poppy eradication campaign, designed and executed jointly with DEA, that this situation abated. U.S. border interdiction and investigative activity within the United States cannot alleviate the problem of cocaine and marihuana trafficking without substantial eradication of illicit cultivation at the source.

Eradication of crops in foreign areas has been a multi-agency effort involving the Department of State/International Narcotics Matters, the host government, and DEA. DEA's role is to identify, through enforcement and intelligence activities, the locations of illicit cultivation, to encourage host country officials to participate in eradication efforts, and to provide technical assistance in the planning and execution of eradication campaigns.

The administration of foreign assistance funds for eradication efforts is a function of the Department of State/International Narcotics Matters. The Department of Justice believes that a high priority should be placed on drug eradication.

On several occasions, assets which have been seized in connection with drug trafficking activities (ships, planes) end up being seized again in connection with other drug smuggling activities. Evidently, when such assets are (ultimately) sold by the General Services Administration (GSA) as surplus property, drug traffickers are the purchasers.

What are your thoughts on working with the Administrator of GSA to establish a system whereby the purchasers of surplus property likely to be used in drug trafficking (e.g., ships, planes) would have to identify the sources of the money being used to make such purchases from the government?

We believe that it would not be possible for GSA in most cases to identify potential purchasers as "drug traffickers," and even if such were possible, the traffickers desiring to purchase such vessels or aircraft could easily arrange for another non-trafficker to purchase the property for them. Moreover, it would not be

difficult for a drug trafficker or his surrogate purchaser to conceal the actual sources of any monies involved.

The Cayman Islands is reputed to be an "off-shore laundry", where drug traffickers are able to transfer profits out of the United States, and then bring them back again, to compete with legitimate businesses. Last year, Congress directed the Justice Department and the State Department to move quickly to negotiate financial information sharing agreements with the Cayman Islands and other off-shore banking havens, so that financial records held overseas could be used to trace drug profits back to high-level drug traffickers. What is the status of those negotiations, and when can we expect to see these kinds of agreements take effect?

Negotiations for a mutual assistance treaty between the United States and the Cayman Islands continue. However, negotiations have not progressed to the point where an effective date can be predicted.

General Legal Activities

STATEMENT OF EDWARD C. SCHMULTS, DEPUTY ATTORNEY GENERAL

ACCOMPANIED BY:

J. PAUL McGRATH, ASSISTANT ATTORNEY GENERAL, CIVIL DIVISION
WILLIAM BRADFORD REYNOLDS, ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION
D. LOWELL JENSEN, ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION
CAROL E. DINKINS, ASSISTANT ATTORNEY GENERAL, LAND AND NATURAL RESOURCES DIVISION
GLENN L. ARCHER, JR., ASSISTANT ATTORNEY GENERAL, TAX DIVISION
KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION
CHARLES R. NEILL, CONTROLLER
JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF

PREPARED STATEMENT

Senator COCHRAN. I would like to now go forward with other witnesses on our schedule. Next is the Deputy Attorney General, Edward Schmults.

Welcome to the committee, Mr. Schmults.

Mr. SCHMULTS. Thank you.

Senator COCHRAN. We will get started again with our hearing.

We appreciate very much having the Deputy Attorney General, Edward Schmults, with us.

Mr. Schmults, we invite you to proceed in any manner that you wish. We know you have a prepared statement which you submitted to the committee. We will make that a part of our record in full at this point and encourage you to make any summary statements or highlight the prepared statement in any way that you wish. You may proceed.

[The statement follows:]

STATEMENT OF EDWARD C. SCHMULTS

I appreciate the opportunity to be here today to discuss the 1983 budget request for the Department of Justice's General Legal Activities. The request of $136,565,000 and 2,743 positions represents an increase of $13,365,000 and a decrease of 11 positions from the anticipated 1982 level. The bulk of the increased funding, $13,467,000, is for uncontrollable expenses which consist primarily of pay annualization and within-grade increases, space rental, telephone and telecommunications charges, airfare and mileage increases and general pricing level adjustments. Other changes include a program increase of $415,000 for private counsel expenses in the Civil Division, offset by a transfer of $517,000 and 11 positions from the Criminal Division to the U.S. Attorneys.

The Assistant Attorneys General of the litigating divisions are here with me today to respond to any specific questions you may have about their programs. They are J. Paul McGrath of the Civil Division; William Bradford Reynolds of the Civil Rights Division; D. Lowell Jensen of the Criminal Division; Carol E. Dinkins of the Land and Natural Resources Division, and Glenn L. Archer of the Tax Division. With the exceptions I have noted, the 1983 request will essentially continue the 1982 funding levels. These resources will support at least the same level of effort as this year, but we will see some shifts in emphasis as I shall explain.

The Criminal Division will have a lead role in our program against violent crime, particularly through the development of Federal-State-Local Law Enforcement Coordinating Committees to handle concurrent jurisdiction matters. In concert with the United States Attorneys, this should allow us to utilize more effectively our federal prosecutorial resources and better meet the unique needs of various sections of the country. Both the Criminal and the Tax Divisions will focus on the prosecution of major narcotics traffickers, with particular emphasis on financial investigations and the potential forfeiture of traffickers' assets and profits. Organized crime and economic crime prosecution will continue to be high priorities. Fraud cases are being given increased emphasis in both the Criminal and the Civil Divisions, and we are actively improving our communication and coordination with the Inspectors General of the various departments and agencies.

The Land and Natural Resources Division will focus resources on the problem of unstabilized hazardous waste disposal sites. Resources made available from the Environmental Protection Agency's Hazardous Waste Response Fund (Superfund) will assist the Division in its efforts. New performance standards promulgated by EPA for various types of treatment, storage and disposal facilities are expected to generate several hundred new enforcement and defensive cases during 1982 and 1983 as suits are brought to challenge these regulations and subsequent permits to be issued.

In the Civil Rights Division, priorities include the prosecution of violent criminal activity in violation of the rights of individuals and groups, and the preservation of the integrity of the Federal civil rights voting laws. A shift of emphasis will continue to be evident in the education and employment programs of the Division as this Administration is committed to practical and innovative solutions to discriminatory practices in these two areas.

One of the most cost-effective Federal budget investments--and one which has not been given sufficient emphasis in congressional testimony in the past--is the importance of the litigation programs of the Department of Justice. Our current defense of Federal programs represents nearly $100 billion of exposure. I cannot emphasize enough the pivotal role this activity can, and indeed does have in protecting the interests of the taxpaying public and the Federal Government.

A major initiative of this Administration and the Department of Justice is the improved management of collecting debts owed to the United States as a result of defaulted loans or court judgments. As of the end of January 1982, the amount of civil and criminal legal process debts owed the United States was over $1 billion. To underscore the priority of this initiative, the Attorney General has assigned the Assistant Attorney General for the Civil Division, J. Paul McGrath, a lead role for improved collections of judgments in the Department of Justice.

The continued improvement of case management systems will also be a priority in the legal divisions. If our full 1983 request is approved, the legal divisions will be able to procure equipment to facilitate further application of automation and word processing systems to litigation management and litigation support. In FY 1982, it has been necessary to defer the planned acquisition of this equipment because of final Congressional action on the Continuing Resolution for 1982 which reduced the request by $2,000,000.

Finally, the increase of $415,000 requested for the Civil Division will enable the Department to respond to continuing requirements for the retention of private counsel. We continue to support amendments to the Federal Tort Claims Act, enactment of which would obviate this requirement; however, until passage of the Amendments is accomplished, the hiring of private counsel to represent Federal employees who are sued in their individual capacity will be necessary.

This concludes my statement Mr. Chairman. My colleagues and I will be pleased to answer any questions you or other members of the subcommittee may have.

BUDGET REQUEST

Mr. SCHMULTS. Thank you. I thought what I might do is just summarize this very briefly.

I appreciate the opportunity to be here today to discuss the 1983 budget request for the Department of Justice's general legal activities. The request of $136,565,000 and 2,743 positions represents an increase of $13,365,000 and a decrease of 11 positions from the anticipated 1982 level. The bulk of the increased funding, $13,467,000, is for uncontrollable expenses which consist primarily of pay annualization and within-grade increases, space rental, telephone and telecommunications charges, airfare and mileage increases, and general pricing level adjustments. Other changes include a program increase of $415,000 for private counsel expenses in the Civil Division, offset by a transfer of $517,000 and 11 positions from the Criminal Division to the U.S. attorneys.

The Assistant Attorneys General of the litigating divisions are here with me today to respond to any specific questions you may have about their programs. They are J. Paul McGrath of the Civil Division; William Bradford Reynolds of the Civil Rights Division; D. Lowell Jensen of the Criminal Division; Carol E. Dinkins of the Land and Natural Resources Division; and Glenn L. Archer of the Tax Division. With the exceptions I have noted, the 1983 request will essentially continue the 1982 funding levels. These resources will support at least the same level of effort as this year, but we will see some shifts in emphasis. I have set some of those out in my statement, Mr. Chairman. I think rather than read the rest of this, although it is quite short, I understand that you will be placing it in the record, so I would just leave it at that. We are all here and would be pleased to answer your questions about the general legal activities of the Department.

Senator COCHRAN. There is a fair amount of consideration being given to a spending freeze that has been proposed here in the Senate and by some over in the other body. I just asked the Attorney General about his reaction to that. He told us that he thought it would really make it very difficult to carry on the same level of activity in the Department as we are observing now.

What is your reaction in view of the fact that your spending levels are about the same as last year, with a small increase for uncontrollables, as you call them?

Mr. SCHMULTS. That is generally correct. However, if we had to absorb the uncontrollables, when you look at the general legal activities, they obviously don't involve any grants or other spending programs. Thus, it would really have quite an adverse impact on personnel levels. I think that would be a bad idea.

Actually, it would be a bad idea throughout the Department of Justice as a whole, but in particular for the general legal activities. When you consider the number of cases that are being handled and the exposure of the Government, with something like $100 billion in lawsuits now, if we don't have first-rate lawyers to handle those cases adequately, you are going to find that you can't handle cases adequately and you are going to pay more out in settlement costs.

I really think the tradeoff would not be good there, considering that settlement costs ran about $5.7 billion a year or two ago. When you are talking about numbers of that magnitude, a cutback on the number of lawyers that we have now, will in my own view have an adverse impact on the budget. We are really talking about a relatively small amount of money here in the general legal activities in comparison to the Department's overall budget.

Mr. Rooney tells me that absorption of the 1983 uncontrollables would amount to a decrease of about 350 people. That would be a substantial impact, Mr. Chairman, to absorb in the general legal activities. It would be a very big impact.

PROMIS SYSTEM

Senator COCHRAN. I recall at one time there was a great deal of concern about a case management system that was being implemented in the offices of U.S. attorneys. There was an indication that a tremendous amount of money had been wasted trying to put together that system. What is the status of that? I notice here in your statement you do refer to continued improvement of case management systems. How much are we continuing to sink into that effort under your request here?

Mr. SCHMULTS. Mr. Rooney, I trust, or Lowell Jensen, will be able to give you the details on that. But that is the PROMIS system to which you are referring. We think that is proceeding essentially on schedule and without waste. Why don't you respond to that, Kevin?

Mr. ROONEY. The PROMIS system, is primarily utilized by the U.S. attorneys, who will be here tomorrow——

Mr. SCHMULTS. Isn't that the one you are talking about, Mr. Chairman the PROMIS system?

Senator COCHRAN. That is right.

Mr. ROONEY. We have been emphasizing the PROMIS system development very strongly in the last 4 to 6 months. As a matter of fact, it is my understanding that the contract was let last Friday to the INSLAW Corp. to begin what will be a three-phase implementation of that development throughout the 94 offices, using a system that is dependent upon the size of the office. Larger offices will have the more comprehensive systems and the smaller offices would all feed into the major system with less sophisticated equipment.

Mr. SCHMULTS. That is going to be initially under the debit side. So there is considerable emphasis now on collecting the debts owed to the Government.

Senator COCHRAN. I see you have a billion dollar figure there as of January of this year. That was owed to the Government under judgments obtained by the Department?

Mr. SCHMULTS. Yes.

Senator COCHRAN. What is the outlook for collecting some of those bad debts that are owed, in your judgment?

Mr. SCHMULTS. The Attorney General has asked Paul McGrath, who is here today and head of the Civil Division, to lead our effort in coordinating debt collection. I believe Paul has a plan under review at OMB

to do that. Discussions are also going on with other agencies of Government. Furthermore, each of the new U.S. attorneys who comes into the Department is interviewed, and we express to them the importance of debt collection. The debt collection module is going to be one of the first to come on-stream in the PROMIS system.

We think the outlook of improved debt collection is good. The Attorney General has made that a major priority of the Department. So I think we are going to see a marked improvement in the figures for debts collected.

PRIVATE COUNSEL FEES

Senator COCHRAN. In the general legal activities account, it appears that the only program increase that is projected is in the tort claims account. What is the need for this increase? Why is it being increased and not some of the others?

Mr. SCHMULTS. That increase is for the private counsel funds. When Government officials are sued in their individual capacity for torts, basically constitutional torts, frequently there is a need to retain private counsel due to the conflict of interest situations which develop whereby the interests of that individual may not coincide with the interests of the Government or other defendants in the case. So there is a need for private counsel funds.

We hope that through amendments we proposed to the Federal Tort Claims Act, which basically would substitute the Government for individual defendants, we would not need these funds in the future. But until those amendments are adopted, there is a real need for those funds.

We have over 2,000 of these cases now, and they are continuing to arise in large numbers. So our need remains for the funds to retain counsel.

Senator COCHRAN. Are Government officials and employees projected to be more negligent this year, or next year, or are private counsel fees just going up?

Mr. SCHMULTS. First, I think private counsel fees are going up. Second, this seems to be a rapidly growing area of litigation. The record of the Government officials in winning or losing the cases is really very, very good. So it certainly doesn't show any increase in negligence on the part of Government officials but, rather, we are just becoming more litigious as a country.

It is for these reasons we think it is important that the amendments to the Federal Tort Claims Act be passed because, for many reasons, it would be desirable to substitute the Government as a defendant able to pay judgments in those cases in which payments are warranted.

Mr. ROONEY. Mr. Chairman, in the past, the Department—and we have an agreement with the chairman of this committee—has not sought private counsel funds as part of the budget request each year. Instead, we have requested funding for private counsel through supplemental appropriations or we advise the chairman as to what expenses we expect. So while this is an increase to our budget, there is no base

amount for this activity. We would have to find that within available resources or specifically ask for a supplemental request each year.

DEBT COLLECTIONS

Senator COCHRAN. On the matter of debt collection and collection of judgments, of the $1 billion that is out there subject to collection, is there a projection that you are making about the amount of money that we will be able to see coming in as a result of this real effort that is going to be made?

Mr. SCHMULTS. Mr. Chairman, I am going to ask Paul McGrath to answer that. Paul is head of the Civil Division and has been our lead in the debt collection efforts.

Mr. MCGRATH. Senator, what we are doing now is trying for the first time to get a realistic view of what part of this money that is owed is in fact collected. That doesn't mean we can writeoff any of them as bad debts technically. But we can find out realistically what is collectible.

What we have been doing is having each U.S. attorney work through the portfolio in his area to find out what amount is either collectible in the near or far future. We hope in the next few months to have a good projection on that. I don't have a projection now because we have not completed that process. But for the first time I think we will have a realistic assessment of how much is collectible.

Senator COCHRAN. Is there any kind of track record that we need to know about that you collect say, 25 percent of that which is owed in previous years, or what?

Mr. MCGRATH. I would be happy to supply that for the record, Senator. It has varied a good deal as to the kind of account. For instance, criminal fines frequently are very difficult to collect, particularly if a person goes off to jail. Yet those remain on the books for years and years.

In other areas the record has been better. But we can submit figures on that for the record.

[The information follows:]

DEBT COLLECTIONS

Department figures show $1,068,370,416 in total debts to be collected by the Department as of December 31, 1981. Much of this figure does not represent real dollars that can be collected and returned to the Treasury. For example, over $117 million of the $1 billion represents criminal fines imposed before October 1, 1981, some many, many years ago. Criminal fines are frequently imposed with little regard to the criminal's financial condition and ability to pay. They are particularly difficult to collect from convicts serving long-term sentences and yet we must carry them on our books until they are paid or we determine the debtor has died. It is my understanding, that part of the proposed Criminal Code Reform Act of 1981 (S. 1630) would require courts to consider, among other factors, the ability to pay when imposing fines and, at least in S. 1630, would permit uncollected fines to be written off after 20 years.

Another $130,410,574 of the $1 billion represents the value of assets agencies have asked the Department to bring foreclosure actions against. In many such cases, the agencies bid on these properties and buy them back at the foreclosure sale or simply take title to them. In either event, no real dollars are generated for return to the Treasury.

Computerized figures for the Department as a whole have only been available since October 1, 1981, but figures from previous editions of the U.S. Attorneys' Offices Statistical Reports for 1978–80 indicate that our net cash effective recovery rate is 24 percent of civil debts imposed which are payable in dollars, as opposed to foreclosures. These same figures show that the U.S. attorneys have carried forward 42 percent of the remaining debt payable in dollars as "accounts receivable" and have written off 34 percent as uncollectable.

The computerized departmentwide data on debts also indicates that in over 50 percent of the $9.1 million in mortgage foreclosures during the first quarter of fiscal year 1982, the agencies bought back by bids some 5.2 million dollars' worth of property, or over 50 percent of the value of the total foreclosed. These same data show that of the $41.5 million collected in civil legal process debts in the first quarter of fiscal year 1982, some $22.4 million or approximately 54 percent, was in cash.

Because these computerized figures have not been available to us for periods prior to the current fiscal year, it would be risky to assume that they are completely accurate as predictors of future collections.

We expect our collections to improve dramatically under our new program. There is one U.S. attorney's office, for example, in which a newly automated collections system was fully activated last october. In that office (Tulsa, Okla.) cash collections of delinquent student loans alone increased an average of 515.8 percent for the 5-month period of October 1981 through February 1982. We look forward to similar substantial improvements in our case collections as we expand such systems into the other 94 U.S. attorneys' offices.

Finally, I would urge the enactment of S. 1249, the proposed Debt Collection Act of 1981, because several of that bill's provisions would be very helpful in increasing the efficiency of governmentwide efforts to collect debts owed the United States.

BACKLOG CASES IN LANDS DIVISION

Senator COCHRAN. I notice in the Lands Division there is justification showing a tremendous backlog of cases in that area. I recall one time when I was on the Judiciary Committee we were trying to put greater emphasis on the rapid closing of cases, handling of cases, even increasing the authorization for funding in the Lands Division, thinking that that would be a cost-effective use of Federal funds. The longer you wait in a land condemnation case to get it completed, the more expensive the land becomes because of inflationary factors. You end up in the long run spending more money than if you had an adequate number of personnel and emphasis on expeditious handling of those cases.

It looks like the backlog is getting worse instead of better, though. Is that because you are not putting enough resources there? Should there be an increase requested to try to do something about that backlog, or are we just going to be content with it getting worse every year?

Mr. SCHMULTS. Carol, do you have an answer for that?

Ms. DINKINS. Yes; Mr. Chairman, we put into effect a very workable system to reduce the backlog in the land acquisition workload. We have in fact reduced it significantly. We have had an increase in the number of cases and matters we have handled in other areas in the Lands Division. But we continue to reduce our workload in the land acquisition area. We believe also that it is cost effective to get those cases moved along very quickly.

Mr. SCHMULTS. I have some figures. There were something like 15,700 land cases pending. But excluding those, I guess the workload of the other cases the Lands Division is handling has increased something like 61 percent over the last 3 years or so. But I think one has to be careful

to separate those other cases from the land acquisition cases. They are not really comparable if you are aggregating those numbers. I think the land acquisition cases are handled by 30 lawyers, as I recall.

Ms. DINKINS. Yes.

Senator COCHRAN. How many lawyers are assigned to the other functions?

Ms. DINKINS. We have about 180 lawyers total, and about 30 in the land acquisition area. We have actually reduced the case and matter load from about 23,000 when we put this into effect, the actual workload, down to in the neighborhood of 16,000.

EPA ENFORCEMENT

Senator COCHRAN. Does the EPA enforcement function come under that division as well?

Ms. DINKINS. It is in the Lands Division, yes.

Senator COCHRAN. The enforcement functions have been reorganized a couple of times, as I understand it, over the last year. I am advised there has been an 18-percent cut for enforcement activities. This raises the question about whether the agency will have the ability to insure compliance with environmental programs. What is your reaction to that?

Ms. DINKINS. We have reorganized one time over the last year in the enforcement area, and that was to achieve a better coordination and more efficient management of the environmental enforcement area. We combined the hazardous waste with the remainder of the environmental enforcement because frequently there is more than one media involved in the hazardous waste case, so that we would have to assign lawyers from two different sections to work on the same case.

It has worked out more efficiently with the reorganization. We have not reduced our enforcement staff in terms of the request for this budget. In fact, with the expectation of additional hazardous waste activity in the superfund area, we are expecting to increase the staff in enforcement.

Senator COCHRAN. The number of referrals is down substantially, though—250 in 1980 compared with 80 in 1981. Do you anticipate further drops in referrals? If so, why do you need so many lawyers handling fewer cases?

Ms. DINKINS. The EPA has advised us, now that they have completed their reorganization efforts in the enforcement area, that we can expect to be receiving additional referrals. We have a substantial group of cases that we are continuing to develop in the hazardous waste area. They are very complicated and will take a good deal of lawyer time.

In addition to that, we have expanded the area of criminal enforcement activity. The FBI has agreed to work on developing as many as 30 cases in the area of criminal enforcement over the next year. This will take additional lawyer and staff time as well.

Senator COCHRAN. Is there any special funding request in here to help you work in a cooperative way with EPA to implement the superfund responsibilities?

Ms. DINKINS. The superfund money comes to us through EPA, and so it is included actually as part of EPA's budget under superfund.

Mr. SCHMULTS. That is what, about $2 million in 1982 and a little more in 1983?

Ms. DINKINS. Yes; and $2.1 million in 1983.

Senator COCHRAN. Have you had any superfund-related cases referred?

Ms. DINKINS. The cases we have under superfund so far are cases that we are adding as superfund count to our existing Resource Conservation and Recovery Act cases which are also hazardous waste cases. We have amended a number of those cases to add such count. We have under review about another 16 or 18 cases.

CONDEMNATION CASES

Senator COCHRAN. Let's return to the question of the some 15,000 tracts of land pending in condemnation suits around the country. Can you break down by percentage why the Government, your agency or your division, is involved in these cases? What makes up these cases? Are most of them national parklands cases or military installations? Do you have any breakdown like that?

Ms. DINKINS. I am sure that we could put that together. A number of cases are parks cases or wildlife refuges. A number of cases are acquisitions for Federal projects, such as Corps of Engineers dams or similar projects. I suspect that our largest number at this time, though, is in the area of parks and wildlife refuges.

Senator COCHRAN. There is a policy to decrease the land acquisition activity. Won't that policy reduce the case load here?

Ms. DINKINS. If that in fact happens, we would be able, I think, to continue to reduce the workload significantly. The cases frequently, though, come to us because Congress has by statute taken the land. So we do not have any discretion in terms of whether or not we are going to maintain those cases on the docket.

COMBATTING VIOLENT CRIMES

Senator COCHRAN. With respect to the Criminal Division, the Attorney General was talking about the emphasis that is being placed on combatting violent crime. But there is no request for additional funding in that area. How are you going to do any more than you are doing now without any more resources?

Mr. SCHMULTS. I think there are a variety of ways that we are doing that. Lowell Jensen can certainly add to this. But one of the principal ways is employing the Federal resources more effectively to supplement the State and local effort which, after all, is the primary effort in this area through the organization across the country, indeed in each district, of a Law Enforcement Coordinating Committee. These committees are headed up by the U.S. attorney in the district. He gets together with the State and local law enforcement people, as well as the Federal agencies heads in his district including the FBI, DEA, the Postal Service and so forth, to decide what should the law enforcement priorities be in

that area. For those areas where violent crime is a problem, the Federal resources in that area will be directed toward that priority matter.

The drug problem is intimately related to violent crime and, indeed, causes a lot of violent crime. That is a high priority in the Department of Justice now. It is going to be a high priority in the Criminal Division. It is a priority in the Tax Division. And the increased coordination of the Drug Enforcement Administration with the FBI, which we can already see large results of bringing the resources of the FBI into the drug effort, will be a very important component of the fight against violent crime.

Lowell, do you want to add anything?

Mr. JENSEN. Senator, I would not add to that because it is exactly where I think we can be most productive. The Law Enforcement Coordinating Committee structure that came out of the Attorney General's Task Force on Violent Crime is now being put together around the country. About 50 U.S. attorneys have conducted their meetings so far. The effort so far has been quite productive.

I would add to the remarks of the Deputy Attorney General that investigating and prosecuting drug trafficking obviously is the area where we can be most effective. The perception from the local effort is that if we can reduce drugs coming into the country at the Federal level, we can have a tremendous impact on violent crime. That is going to be an area of specific focus.

WITNESS SECURITY PROGRAM

Senator COCHRAN. I notice in the area of witness protection the request is up nearly 28 percent, up to over $10 million for next year. I don't know whether you are aware of it or not, but in our State we had a very tragic occurrence that involved a person who was under a witness security program, allegedly kidnapping and murdering a bank teller in the city of Jackson. A good deal of concern has been expressed about the administration of that program, whether or not care is being taken to not only protect the witness under the program but protect the community in which that witness is placed. If the person has a tendency or disposition toward violent crime, whether you are doing the public a service by protecting such a person or not, whether or not there is a screening procedure that is adequate to meet these concerns and needs. Are the programmatic changes that are contemplated due in part to that incident or others like it? I understand there have been other similar incidents around the country.

Mr. SCHMULTS. The witness security program, as such, is in the U.S. Marshals Service budget, and is not in the general legal activities budget. But with respect to that program, I think we are looking very hard at the procedures by which someone is taken into the witness security program. One does have to be concerned about costs there as well as whether it is absolutely essential that the witness testify, No. 1, and 2, whether it is absolutely essential that the witness be taken into the witness security program.

It is a very important program, particularly in the area of organized crime cases and drug cases as well. So we are looking at that. We are concerned about the problem you have raised. But as I say, the witness security program is in the Marshals Service.

Mr. JENSEN. Senator, if I may, your point, I think, is very well taken. There is a screening mechanism now which starts with the U.S. attorneys and comes through the Criminal Division. So precisely what you asked about exists, there is a screening mechanism to make sure that the resources of the Marshals Service will be appropriately used for these kinds of cases.

You are correct, there are some cases where it has not worked, and we need to look at the screening process. In the Criminal Division we have a specific commitment of attorneys who are experienced in that process.

FEES AND EXPENSES OF WITNESSES

Senator COCHRAN. What is the extra $1,700,000 for then?

Mr. ROONEY. Mr. Chairman, that increase is in the fees and expenses of witness appropriation.

Senator COCHRAN. That is not witness protection.

Mr. ROONEY. No; not directly. It is where we provide subsistence and the housing allowances, et cetera. Those are going up primarily because of rising costs as well as the extended number of months in the program. This is not a part of the witness security program of the U.S. Marshals Service budget.

Senator COCHRAN. In the fees and expenses of witnesses portion, an additional $2,493,000 has been requested for expert witnesses. This additional $1,700,000 is for nonexpert witnesses; is that what that is?

Mr. ROONEY. Yes; there are three other categories: for fact witnesses, which we have in our trials, we are asking for $1.6 million, I believe——

WITNESS SECURITY PROGRAM

Senator COCHRAN. What is the amount of money you have in there for the witness security program? Do you have that in this budget?

Mr. ROONEY. It is in the U.S. Marshals Service. We have witness security, the security program, at $17,518,000.

Senator COCHRAN. What was it last year?

Mr. ROONEY. Last year it was about the same. The Marshals Service will be here tomorrow.

WITNESS SECURITY PROGRAM OBLIGATIONS

In 1981, the witness security program incurred obligations of $15,590,000. In 1982, if supplemental funding is included, $18,802,000 would be available.

Senator COCHRAN. Senator Rudman, do you have any questions?

Senator RUDMAN. I don't have any questions for this witness. Thank you.

VOTING RIGHTS ACT

Senator COCHRAN. How many people are going to be involved in carrying out the Voting Rights Act? Is there a request for an increase in funding or decrease in funding for that function?

Mr. SCHMULTS. Brad, do you want to answer that?

Mr. REYNOLDS. Senator, I believe the most dramatic increase in activity under the Voting Rights Act is upon us at the present time because of the 1980 census and the redistrictings that flow from that particular census count. That activity is really one that has brought a number of submissions under the Voting Rights Act to the Division this year. It is particularly heavy now and will continue to be, I think, through probably the summer of this year. We anticipate that after those redistrictings in response to the 1980 census are behind us, and have been reviewed, that the activity will reduce some and go back to the level that it was prior to the 1980 census. We now have approximately 56 people in the Division that are handling that activity. Over this temporary period of time, we have had the need to borrow some additional resources from other areas because of the high priority that this activity takes. But I do anticipate that that particular increase will be behind us after the summer of this year.

Senator COCHRAN. There was a big increase in the number of submissions for preclearance of local election law changes filed—2,001 in 1981, 3,200 in 1982, and projected 3,000 in 1983. Has the division increased the number of persons who are handling these to meet these increased burdens on that office?

You say there are 56 now. Were there fewer than 56 in prior years?

Mr. REYNOLDS. I think that we have had some increase over the—can you help me out on that? There has been some increase since 1979 and 1980, I believe, but not in the past year.

Mr. SHAFFER. If I may, in 1981 the voting rights area had about 53 work-years consumed. They are expecting to use about 59 in 1982. That is without any addition. This is strictly the people in that program.

Mr. ROONEY. Others have been detailed in that program from elsewhere in the Department.

Senator COCHRAN. Is there any significant backlog of preclearance submissions? Do you have any figures on that?

Mr. REYNOLDS. We don't really have any ability to have much of a backlog because of the way the——

Senator COCHRAN. You always request additional time, additional information, which means additional time.

Mr. REYNOLDS. But, there again, you can only ask for additional information one time and that allows another 60 days from the time that information comes in. But you cannot continue to ask for additional information. So we are really under quite a stringent time requirement as far as getting out the decision on submissions, and we really don't have a backlog of submissions in that regard.

Senator COCHRAN. How many of the 56 people are lawyers?

Mr. REYNOLDS. We have 22 attorneys in the voting section.

Senator COCHRAN. How would you describe the other persons who fill those positions in terms of training or job descriptions? Paralegals, clerks, what?

Mr. REYNOLDS. We call them equal opportunity specialists. I think functionally the description would not be unlike paralegals. They do have training that we give them in terms of evaluating the submissions that come in. They are very expert in that activity. They are under the supervision of attorneys.

ADDITIONAL COMMITTEE QUESTIONS

Senator COCHRAN. I don't think I have any other questions. Senator Rudman has no other questions.

Mr. Deputy Attorney General, we appreciate very much your being here and helping us sort out this request and understand it better. Thank you all for being here.

Mr. SCHMULTS. Thank you, Mr. Chairman, Senator Rudman.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

Witness Security Program

The justification states that the Office of Enforcement Operations is responsible for analyzing and evaluating the utility and disutility and the implementation of the sensitive investigative techniques it supervises. How does the Office make these evaluations?

In the Witness Security Program, each request to enter a witness into the program is very carefully reviewed to determine that the matter in which the witness is to testify is of such significance that use of the program is justified. In addition to a written request from a prosecutor the Office of Enforcement Operations also requires a written threat assessment from the investigative agency's headquarters, a preliminary interview report from the U.S. Marshals Service, and the written recommendation of the appropriate litigative section of the division. It is only after all this information is received that a witness is authorized to enter the Witness Security Program.

The Office of Enforcement Operations periodically requires that the prosecutors who have used the program submit the results of the cases in which witnesses have testified. Our present procedure for accomplishing this review of case results is cumbersome and unreliable. It requires a great deal of the Office of Enforcement Operations' staff time, which is at a premium, and given the press of daily business, is not done on a regular basis. We are therefore unable to provide precise ongoing figures to prove the utility of the Witness Security Program. It is for this reason that the Office of Enforcement Operations feels that implementation of the management information system is essential to the proper performance of our duties.

There are four investigative techniques which are under Office of Enforcement Operations' supervision:

- Witness protection and relocation
- Electronic surveillance, non-consensual monitoring devices, and pen registers
- Hypnosis in the interrogation of witnesses
- Criminal Division's use of confidential funds

The Office of Enforcement Operations (OEO) has authority to coordinate and review all Department of Justice applications and certain applications from other federal agencies for use of all these techniques to ensure compliance with law and Executive Branch and Departmental policy.

Electronic surveillance includes several devices and techniques for detecting, overhearing, observing, and recording communications between persons suspected of involvement in criminal activity. OEO is concerned with three types of electronic surveillance.

The first type is nonconsensual monitoring (telephone wiretaps and room "bugs"). While OEO does not have authority to approve requests to apply for judicial authorization, it reviews all documents submitted to the Assistant Attorney General of the Criminal Division, or other designee of the Attorney General, and determines whether the case is significant and whether or not the application to be made to a court is legally sufficient.

The second type of electronic surveillance is consensual monitoring, which is governed by Executive Branch policy. Requests for consensual monitoring are finally approved by OEO after determining whether the requests are legally sufficient, within the requirements of Executive Order 11396 and related Presidential memoranda of September 11, 1979 and June 30, 1965, and as specifically defined in the Attorney General memorandum dated September 22, 1980.

Requests for use of the third type of electronic surveillance, telephone pen registers, are not made through OEO. However, OEO recommends departmental policy and standards for the use of pen registers.

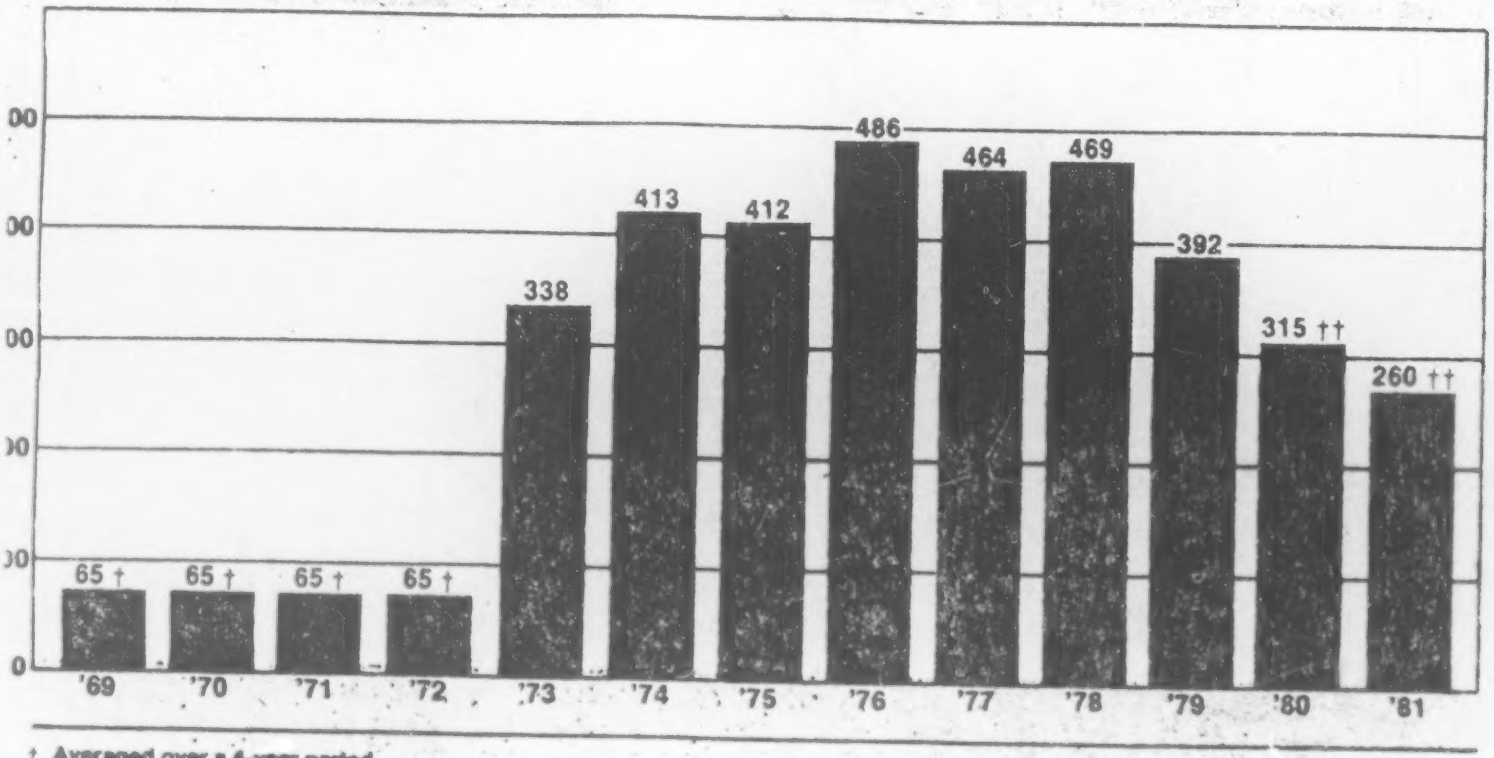
OEO has full authority to review and approve or disapprove all applications for the use of hypnosis. Hypnosis has proved to be useful in helping witnesses recall details or additional information about a specific event which is relevant to a criminal investigation. Hypnosis is appropriate in only a limited number of cases. Departmental policy requires that a qualified hypnotist conduct the session and that the session be videotaped or recorded and transcribed. OEO is responsible for ensuring that these criteria are met.

The Annual Justice Department Authorization Act provides a fund for the payment of informants for specific information. This fund is rarely used since most investigative agencies have means by which the agencies compensate their informants. Generally, the fund is used only when the informant in a matter of significance prefers not to speak to an agent but a Departmental attorney. All requests for the use of confidential funds are reviewed by OEO which in turn recommends authorization of such requests. In all cases, the Attorney General must personally authorize use of these funds.

What are the Office's conclusions about how successfully the Witness Security Program has been implemented? Please supply any information or data supporting these conclusions.

The administration of the Witness Security Program has undergone significant improvements. As a result of the thorough review process, the quality of cases in which the program is used has been significantly upgraded. This has resulted in a significant reduction in the number of new entries into the program each year (see attached table). The reduction in the number of new entries, along with an increase in U.S. Marshals Service personnel assigned to the Program, has resulted in better service to program participants. More than 3,800 witnesses and their families have been relocated since 1970, the vast majority of which have adjusted to their relocations and have blended into their new communities. It would not be possible to conduct a major war on significant crime without the ability to hide those witnesses who are likely to be murdered after testifying.

Witnesses Entering Program



† Averaged over a 4-year period.
†† For the fiscal year ended Sept. 30.

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What kind of management information do you currently maintain on the accomplishments of the Witness Security Program?

The Office of Enforcement Operations has recently begun to systematically gather and maintain information concerning:

1. Indictment-conviction data (i.e., results of program use)
2. Arrests of relocated witnesses
3. Numbers of requests processed; approved, denied, etc.
4. Scope of criminal activity
5. Types of violations prosecuted
6. Significance of defendants
7. Frequency of assaults, injuries, deaths of witnesses
8. Use of relocated witnesses as informants and its effectiveness

All of this information has been maintained in the past, but not in a systematic, easily retrievable format. The Office of Enforcement Operations has begun to implement the above-described management information system manually.

Based on your evaluations, what policy and procedural changes have been made to the Witness Security Program during the past year?

The Office of Enforcement Operations continues its extensive review of applications to place witnesses in the program and to further refine the review process. OEO is pilot-testing new forms to be used for requests to use the program which require even more detail than is now required.

The program continues to be very controversial. The news media continues to relate stories about relocated witnesses committing new crimes, leaving behind unpaid debts or unsettled custody matters. What is the extent of these problems?

A thorough review of the program in 1977 by a committee appointed by the then-Deputy Attorney General, revealed that approximately 15 percent of the relocated witnesses had committed crimes after entering the program, a low recidivism rate. The Office of Enforcement Operations has begun the systematic collection of the data available concerning criminal activity of program participants in order to better monitor this very important element of the program. Unpaid debts are an occasional problem, but do not appear to be an unmanageable problem. Child custody matters are few but, because of their emotional impact, tend to receive a great deal of publicity when they do occur.

What actions has the Department taken to prevent the occurrences of these problems?

Concerning criminal activity, all program participants who are on federal probation or parole are now actively supervised by the Probation Division. These individuals are treated like all other probationers and parolees, except that precautions are taken to

ensure that the new identity is not compromised. In addition, at the time a witness is authorized to enter the program, the Federal Bureau of Investigation is notified and asked to place a "stop" on the individual's fingerprints and arrest record (this is also done for each adult member of the household). The "stop" ensures that whenever an inquiry is received from any law enforcement agency, the Office of Enforcement Operations and the U.S. Marshals Service are notified. If the inquiry concerns an arrest, the Federal Bureau of Investigation forwards the rap sheet to the requestor, and the Office of Enforcement Operations and the U.S. Marshals Service providing whatever background information the requestor may need, including the specifics of the witness' status in the program. While we cooperate fully with law enforcement authorities whenever witnesses are arrested, we cannot effectively prevent their criminal activity. We can, however, assist local law enforcement to ensure the program is not used as a shield.

To prevent child custody problems from developing, the U.S. Marshals Service makes certain that the relocated parent has legal custody of children before the relocation is effected. If there is no court order granting custody to the relocated parent, the children are not moved. If the non-relocated parent subsequently attempts to obtain custody, the relocated parent is returned to the danger area by the U.S. Marshals Service to appear at any court proceedings. If the relocated parent refuses to cooperate, and the non-relocated parent succeeds in obtaining a court order transferring custody, the children are returned by the U.S. Marshals Service to the parent with legal custody. It is the position of the Department that the relocated witness will not use the program to escape the jurisdiction of the family court. Further, we will honor the courts' decision in child custody matters.

Unpaid debts are difficult to resolve. We cannot force a witness to pay his debts. However, prior to entry into the program each witness is informed that he is expected to settle his financial obligations. The U.S. Marshals Service will forward to the witness any material relating to his debts, including legal process. The witness is encouraged to resolve the matter with his creditor.

What does the Office do to determine if relocated witnesses are establishing lawful lives under their new identities?

The paragraph above describes actions taken to prevent occurrences of problems of relocated witnesses. The paragraph discusses the "stops" on the Federal Bureau of Investigation records and parole and probation supervision. There is little else we can do to determine how witnesses lead their lives. We have neither the manpower nor the legal authority to supervise the daily lives of witnesses. Witnesses who are not on probation or parole, regardless of their prior criminal activity, enjoy the same rights and privileges as any other citizen.

How many relocated witnesses were arrested, charged or convicted of new crimes last year?

We do not have this information at this time.

In your opinion, is the Marshals Service devoting adequate resources to this program?

The U.S. Marshals Service has an appropriation pending which requests additional funding and manpower to enable it to better service the program participants. We encourage furnishing the Service with those resources necessary to meet its obligations under this program.

Office of Enforcement Operations

You state that the Office of Enforcement Operations has an objective to establish a management information system for Title V of the Organized Crime Control Act of 1970. What is the current status of this objective?

At the request of the Office of Enforcement Operations (OEO), a management team of four analysts from the Justice Management Division conducted a review of the OEO programs beginning in May 1980, to assist us in developing a system for evaluating the effectiveness of the techniques within the jurisdiction of the Office. Working closely with the staff of OEO, the team developed a proposal for a comprehensive system for collection and analysis of information concerning the use of these techniques and the results of investigations and cases in which they are used. The Justice Management Division's review was completed and a report submitted to OEO in April 1981. Since that time, OEO has implemented testing of some of the information forms developed during the review, has begun a systematic manual compilation of information obtained by way of the forms, and has continued to compile prosecution data regarding cases in which these sensitive investigative techniques were employed.

The management team working closely with OEO found that the resulting system for collection of data requires a comprehensive and complex set of forms and procedures. Considering the rate at which applications must be processed, OEO could not, at its present staffing and resource level, maintain the new recordkeeping system to evaluate an adequate sample of authorized uses of the techniques. Several alternatives were therefore considered for improving OEO's information management and evaluation capability. After careful examination, manual alternatives were dismissed primarily because they would require significant personnel increases. An automated system was found to be essential to support OEO's program monitoring and evaluation responsibilities. Minicomputers and certain word processors could easily accommodate OEO's functional and storage needs. In addition, an automated system adds the dimension of significantly improving OEO's office management practices by assisting in daily and weekly planning and arranging work priorities to prevent delays or missed deadlines.

When do you anticipate completion?

At the current level of staff and the projected staff level for FY 1983, full implementation of the management information system is not in the foreseeable future. The current level staff is adequate to satisfactorily handle the daily electronic surveillance, witness security, use of hypnosis, and consensual monitoring matters. However, the other OEO responsibilities, such as operation of the management information system, and analysis and evaluation of the sensitive investigative techniques under the purview of OEO, cannot

receive the attention they require. Due to the above circumstances, it is impossible to anticipate completion of a management information system. As indicated, some manual testing of data acquisition capabilities is going on.

Can you supply pertinent information about the information the system will capture and its expected cost in both dollars and additional staff years?

The management information system would reveal whether the use of the sensitive investigative techniques is having an impact on and causing development of highly significant cases in the Government's fight against organized crime.

With particular regard to witness security, the information system will indicate whether the Witness Security Program is providing safety to the witnesses as well as other data related to the program's objectives including:

1. Indictment-conviction data (i.e., results of program use)

2. Arrests of relocated witnesses

3. Numbers of requests processed; approved, denied, emergency, etc.

4. Scope of criminal activity

5. Types of violations prosecuted

6. Significance of defendants

7. Frequency of assaults, injuries, deaths of witnesses

8. Use of relocated witnesses as informants; effectiveness.

More in-depth systems analysis will be necessary to determine the exact memory capacity, access and processing needs and operating costs of an automated management information system. The approval and assistance of the Systems Operations Staff of the Justice Management Division must be obtained in developing a request for proposals for systems design, development, and implementation. It is impossible to project costs at this stage. The employment of a systems analyst either in OEO or payment through Justice Information System Center and the employment of at least one systems technician in OEO are probable.

Why has it taken the Department so long to begin development of such a system in view of all the controversy and concerns raised by this program over the years?

The establishment of the OEO in February 1979 was the first step in recognition that the administration of these sensitive investigative tools needed to be centralized in order to ensure uniformity in their use and to guarantee their most effective utility. Since the establishment of OEO, the administration of the Witness Security Program has undergone significant improvements:

1. The quality of cases in which the program is utilized has been upgraded due to the uniformity of program criteria which must be met before a witness is authorized to enter the program.

2. Coordination with the Bureau of Prisons and the U.S. Marshals Service of services to the witnesses has been improved.

3. Since 1970 there have been over 3,800 witnesses and their families enrolled in the Witness Security Program; the vast majority of which have made the adjustment to their relocations and have blended into their new communities.

Development of the OEO management information system required time and experience in order to establish a basis on which to measure the criteria for such a system. We could not develop the criteria until experience showed us the need for the types of information necessary to effectively manage the utility of these sensitive investigative tools. Three years of experience has aided us in identifying the information required. We have begun to gather the information and pilot-test the system manually.

Civil Fraud Cases

How many civil fraud cases has the Commercial Litigation Program initiated during the last fiscal year? How many were referred from the Criminal Division?

The Civil Division received 4,029 referral reports in FY 1981 from the FBI, Inspectors General and independent investigative units of various federal agencies. Of these, 385 referrals were assigned to staff attorneys for case development or further exploration. The remaining reports were either delegated to the U.S. Attorneys Office or closed administratively prior to assignment. Examples of the numerous reasons for closing cases prior to assignment include: unsubstantiated allegations, legal insufficiencies, lack of defendant identification, lack of monetary loss to the government, and prior recoveries of the losses through criminal actions or agency adminsitrative procedures. Fraud cases involving less than $60,000 are generally delegated to the U.S. Attorneys Office. In FY 1981, 1,930 cases were forwarded to the U.S. Attorneys; however, it should be noted that many of the FY 1981 referrals were initially generated within the Division prior to FY 1981. Our statistics do not differentiate delegated cases between the referrals received by the Division in FY 1981 and those received during prior fiscal years.

The Civil Division receives a limited number of independent referrals from the Criminal Division. Many FBI reports are routed through the Criminal Division, which in turn forwards them to the Civil Division. This pass-through serves primarily as a mechanical conduit rather than as a referral suggesting civil action.

Collections Effort

Would you please provide the Subcommittee with details on the total amount of money which is owed the United States Government; what is being done to collect these funds; what portion of the debt is realistically collectible; and how much the government is spending on this collections effort?

The Department of Justice is unable to respond on behalf of the entire government as to details on the total amount of money owed to the United States including government-wide collection activities, assessment of collectibility or total government expenditures for collections. We are able to provide the committee with details concerning that portion of debt owed to the government that the Department has responsibility for collecting; e.g., those debts referred to the Department for collections, criminal and civil fines, etc. As of September 30, 1981, the Department's collection responsibility included an outstanding debt of $1.1 billion. A large portion of the caseload of this debt results from defaulted loans referred to the Department for collection by such agencies as the Veterans Administration and the Department of Education. The balance results from litigative action, that is, fines, penalties, judgments, and court costs.

The Department has implemented a debt collection plan which has been approved by OMB. We are meeting with the U.S. Attorneys and their staffs to (1) emphasize the importance of the collections effort; (2) determine the most effective means of collections; and (3) train personnel to use the most effective and efficient methods of collections. We have met with officials in the Department of Agriculture to discuss ways to emphasize collections in states with the most severe rates of default on Farmers Home Administration loans. We are working with the Department of Education to develop a standard litigation package to be sent to all U.S. Attorneys in defaulted student loan cases. This will save the agency and the U.S. Attorneys' time because the documents needed for collections actions can be turned over to the U.S. Attorneys expeditiously. In addition, we support the Debt Collection Act of 1981. This bill would require OMB to establish regulations for reporting on debts owed the United States, and to provide additional procedures for the collection of debts of the United States, consistent with the rights of privacy for U.S. citizens.

Much of the debt owed to the United States is probably not collectible. The Justice Department is the collector of last resort. Large criminal fines imposed upon criminals given long prison sentences are seldom collectible. In addition, many of the civil debts are turned over to the Department after attempts made by the client agency to collect the debt have proven fruitless.

The Department-wide total of dollar amounts imposed for judgments is over $1 billion. As of the end of FY 1981 (September 30, 1981) 40 percent of these debts were in payment status (i.e., one payment had been made at one time or another but were not considered in a regular payment schedule). The total amount paid as of September 30, 1981 was $68 million.

Currently, the Department is spending $6.6 million in its judgment enforcement efforts. The U.S. Attorneys' Office is responsible for much of the collections effort. However, some of the other divisions such as Civil, Antitrust and Tax devote some resources ($1.7 million in FY 1981) to this task.

How does the Department of Justice know whether a jurisdiction has implemented a change to which the Department has objected? Does the Department do an actual followup? Does the Department rely upon civil rights groups or others to inform it on objected-to-changes which are subsequently implemented?

All letters of objection request that the submitting authority inform the Department within 20 days as to whether or not the objection will be complied with. Objections are also reported on our Weekly Notice sent to all interested parties who have requested this weekly publication of all Section 5 submission activities. Local contacts will generally inform us if a Section 5 objection is not being complied with. For example, in 1981 a review was conducted of the status of compliance with every objection interposed under Section 5 since January 1, 1975.

Have the civil penalties in the Voting Rights Act ever been applied where changes were implemented without preclearance by the Department of Justice? Have the penalties been used where objected-to-changes were subsequently implemented? If the penalties have not been applied, why not? Do you believe the current penalties ought to be revised? What are your suggestions on revision?

The civil actions that the Attorney General is authorized to bring under the Voting Rights Act lead to remedies such as injunctions and declaratory judgments. Under these provisions, we initiate suits to enjoin the operation of changes that have not been precleared. In addition, in one case, a jurisdiction was held in contempt of court for attempting to implement a voting change after use of the change had been enjoined United States v. Hale County Commission (Alabama), C.A. No. 76-403-P (S.D. Ala.). The Voting Rights Act also contains provisions that authorize criminal actions, but, since 1975, the Civil Rights Division has brought only one criminal prosecution in the area of voting rights, a prosecution under 18 U.S.C. 242 in a case involving vote buying in St. Landry Parish, Louisiana.

In determining what remedies to seek in litigation, the Department is basically guided by the nature of the violation: the defendants should take the action needed to bring them into compliance with federal law and remedy the effects of the violation. As a rule, declaratory and injunctive relief generally are sufficient to insure the federally protected rights of the victims of voting discrimination.

What will be the impact on the Voting Rights Section if proposed legislation is enacted? Do you think you can handle the enforcement of the Voting Rights Act with your current staffing? Or do you need additional staff?

H.R. 3112, the House-passed bill, would substantially change the bailout process. First, a bailout suit could be brought by an individual county in a fully covered state. There are more than 800 such counties. Second, new bailout standards would be applicable after August 1984, which would be the earliest possible date for bailout.

It is difficult, at this time, to estimate what the demands on our resources would be after August 1984, because that requires speculation as to the number and timing of bailout suits that would be filed and the issues that would be in dispute. It is possible that, in 1984 and the next several years, a large number of bailout suits would be filed. Still, the standards are such that it would be exceedingly difficult for a plaintiff jurisdiction to meet them. For example, a bailout effort by a state or a county could be defeated simply by showing that one of the towns within it had failed, during the preceding ten years, to obtain preclearance of one or more changes in voting laws. Accordingly, even if the number of suits were large, there might be few trials and few full investigations. Litigation of some legal issues, including appeals, might be necessary.

At some point, probably after 1992, the situation would change. That is, adjudication of the various issues presented by the bailout standards would be necessary. Such suits would be extremely difficult and complicated. They would, for example, entail litigating the purpose and effect of all electoral systems of the plaintiff jurisdiction and all of the cities, towns and school districts within it. The demands on this Department with regard to investigating and litigating even a single suit of this type would be extremely great. Nonetheless, because it appears that such demands would not arise until many years in the future, we cannot be specific regarding the additional resources that would be needed.

Use of Paralegals

Are paralegals used extensively by the Voting Rights Section? How many paralegals are currently used?

The professional staff of the Voting Section is employed in one of two job classifications: Equal Opportunity Specialists, whose primary responsibility is to analyze changes submitted under Section 5 of the Voting Rights Act, and Paralegal Specialists, whose primary responsibility is to provide litigation support. Currently there are 14 permanently assigned specialists, and three paralegals in the Voting Section. The paralegals usually work on matters under investigation and assist in the preparation for litigation, and in doing so, among other things they gather, evaluate and analyze data, in the Voting Section offices and in the field; they conduct interviews in the field with persons, including potential witnesses, to obtain legal and factual and statistical information; they compile various types of information into maps, graphs and charts that are introduced into evidence at trials; and they assemble, correlate and control exhibits for and during trials. Other paralegal duties include conducting pre-election inquiries while in the office and in the field to obtain information relevant to the federal observer program, and assisting Departmental attorneys in the field during election coverage programs.

How many of your "no objections" decisions to proposed changes have been overturned by the courts?

There have been no final court decisions in which the Attorney General's decision not to object to a submission under Section 5 has been overturned.

Case Backlog

Have you completed the task of microfilming your records? If not, what is the extent of the backlog and how is it impacting (in addition to the increased workload) on:

Reviewing cases within the 60-day review time frames?

These circumstances cause no appreciable delay in the review of Section 5 submissions within the 60-day period allowed by the statute. The largest backlog, involving filming of outgoing papers, relates to submissions on which our work has been completed, and the paper files on those submissions are kept available for use in the few instances where they are needed. In fact, a lower priority has been given to this portion of the filming process in order to allow us to keep the filming process current for matters that are within the 60-day period.

Minimizing the length of time that cases remain pending?

Any reduction in the length of time for microfiching incoming Section 5 submissions theoretically would contribute to reducing the length of time that submissions remain in a pending status, i.e., the time between the receipt of a submission and the response on the merits. However, as microfiching does not cause appreciable delays in the review process, the practical effect of reducing microfiching time would not contribute to any significant reduction in the length of time submissions remain pending.

Monitoring the nonsubmission of changes, implementation of objected-to-changes and requests for additional data and resubmissions?

Microfiching procedures have no impact on our ability to monitor nonsubmission of changes, implementation of changes to which objections have been interposed, or requests for additional information. Data with regard to the Department's actions on Section 5 submissions are maintained and kept current in a computer system; computer entries are made for these actions even if the relevant paper files have not been filmed.

The microfiching of Section 5 submission files was designed to be a continuing process using updatable microfiche. Thus, we are able to film the papers we initially receive with a submission, and to film additional papers after a response is sent to the submitting jurisdiction (large maps which cannot be filmed are maintained in file cabinets). Any later correspondence is added to the fiche in a similar manner. Under the present volume of submissions the process of microfiching incoming papers usually takes 2 to 3 days; an additional day or two is required from time to time when especially large numbers of submissions are received within a single week.

At present, all initial submissions since January 1, 1980, have been filmed, with the exception of supporting material that accompanied the submission of redistricting plans received since mid-

January, 1982. Filming is also current with regard to our letters requesting additional information, the responses to such letters, our letters requesting the submission of unprecleared changes, and the responses to those letters. Filming of our letters informing jurisdictions of the Attorney General's decision with respect to Section 5 submissions, and filming of our internal work papers on those submissions is current as of July 1981.

Do you use a cutoff on the length of time a case can remain pending before the Department interposes an objection to a proposed change which is awaiting additional data?

The Department does not have a specific time period after which an objection automatically is interposed to a Section 5 submission for which additional information has been requested from, but not furnished by a jurisdiction. However, our guidelines provide that, in such a case, if the jurisdiction fails to provide the additional information within 60 days, the Attorney General may object to the change, "absent extenuating circumstances and consistent with the [applicable] burden of proof" 28 CFR 51.38.

How has the computerized data control system improved your efficiency? Has it resulted in improved accountability over records?

A revised computer program, introduced in 1979 for data relating to Section 5 submissions, has improved efficiency to a marked extent by allowing the entire procedural history of any submission to be reported quickly, and by allowing the Department to obtain information categorically with respect to various aspects of the Section 5 submission process. Accountability over records has been improved by having a permanent data base that reflects the existence, nature, and date of each document that affects the 60-day period for each Section 5 submission.

The Voting Section's participation in the computerized data control system that is used by all elements of the Civil Rights Division for indexing matters and cases has contributed to efficient administration by allowing for periodic examination of the status of matters and cases involving voting rights. This, in turn, has assisted in assuring that records are properly routed and filed when, for example, cases are closed.

Submission Increases

Compared to 1981, you estimate about 50 percent increase in the number of submissions for FY 1982 and 1983.

What are the reasons for these increases? Has the increase for 1982 materialized thus far?

The increases in the number of submissions projected for FY 1982 and FY 1983 reflect the somewhat higher rate of changes that are made by jurisdictions prior to elections held in even-numbered years, but the increases primarily reflect the anticipated receipt of redistricting plans that jurisdictions adopt on the basis of 1980 census figures, and changes that usually accompany redistrictings, such as modifications of precinct lines and polling place locations. We projected that at least 1,000 redistricting plans

would be submitted by the end of FY 1982, and that projection appears to be accurate; thus far we have received over 425 of those submissions (the number increases weekly), and the pace will increase as state legislative plans become final and counties begin to redraw their districts in light of the states' district lines.

Will most of the increase in submissions be the more complex redistricting and annexation proposed changes?

The most significant portion of the increase in the number of submissions is comprised of redistricting plans. While the number of submissions involving annexations also may increase, there does not appear to be any particular reason for annexations to increase significantly within the covered jurisdictions in FY 1982 and FY 1983.

How will these increases be reflected in the caseload per paraprofessional?

Increases in the number of submissions naturally would increase the workload of our Equal Opportunity Specialists.

Are the staff needs you project adequate to process cases within the 60-day review time frames? In terms of "intent" or "effect", are the staff levels sufficient to adequately evaluate the proposed changes?

The need to process all submissions within the statutory 60-day period has come to involve nearly all of the staff of the Voting Section. Indeed, right now there is no single enforcement effort more important than insuring that minorities are not victimized, and that their right to vote is not diluted when districts are redrawn for Congressional, State House, State Senate, county and city legislative bodies within specially covered jurisdictions. It is crucial that minorities do not lose the gains that have been won since 1965, and our highest priority is to protect and reserve those gains. Because of the complexity and significance of these kinds of matters, and the short time we have to review them, we have assigned to our voting rights lawyers the primary responsibility for the first-level review of stateside redistricting plans, many of which require teams of several people, attorneys and paraprofessionals to review. Accordingly, we have been devoting our resources to enforcement efforts that have first priority in terms of minorities' voting rights, and our staff levels, under these circumstances, have been sufficient to adequately evaluate the proposed changes in terms of intent and effect. We now project the workload will exceed the capacity of current staff and are obtaining temporary details of personnel from elsewhere in the Department.

Since the responsibility for processing submissions on proposed changes was generally assigned several years ago to the paraprofessionals, why are you estimating decreases in the number of new litigation cases which are handled by the professional staff?

As indicated above, we have utilized all of our voting rights staff to the extent necessary to analyze and respond to Section 5 submissions of redistricting plans and other changes of particular significance, especially when the change is the subject of litigation or is likely to be litigated. While this involvement of our voting rights lawyers necessarily impacts on other law enforcement activities, it is a most effective and efficient approach to the enforce-

ment of both the spirit and the specific protections of the Voting Rights Act. For example, thus far we have participated as amicus curiae in two cases where redistricting plans that our lawyers were analyzing under Section 5 also were the subject of private litigation; one involving the redistricting of the New York City Council and most recently, a case involving redistricting plans for the Texas Legislature. Moreover, we are litigating a Section 5 declaratory judgment suit brought for preclearance of the California Senate redistricting plan, and a suit for preclearance of the Georgia Congressional redistricting plan. Further, for the redistricting plans on which our lawyers have worked so far, objections have been interposed to 15 statewide changes; 5 to state Senate redistrictings (Arizona, Georgia, North Carolina, Texas and Virginia), 7 to state House redistrictings (Arizona, Georgia, North Carolina, South Carolina, Texas and Virgina (2)), and 3 to Congressional redistrictings (Georgia, North Carolina and Texas). It is noteworthy that while our best legal expertise is being devoted to these most significant matters, the analysis of all other changes submitted under Section 5, including other redistrictings, has proceeded apace and within the 60-day period. Thus, these new litigation cases are those which most directly affect the right of minorities to be fairly represented at the nations' highest legislative levels, and any numerical decrease in the number of new cases will be temporary.

Have submissions involving redistricting increased proportionately as planned during the first half of FY 1982? Do you project further increases?

The increases that were projected in the number of Section 5 submissions involving redistricting plans, the number of such submissions that have been received, and our expectations regarding additional redistricting plans that we may receive are addressed above.

1979 Reorganization

What has been the effect of the 1979 reorganization? What has been the impact to the caseload per paraprofessional and the number of cases litigated under Section 2 and Section 5 of the Act?

Submission review was made more efficient by the reorganization of the Voting Section's Section 5 Unit in 1979 which redefined and upgraded the role of the analysts, streamlined the unit's management functions and administrative processes, and enhanced the professional development of the unit staff. It is somewhat difficult to compare with precision the Section 5 caseload of the paraprofessionals before and after the reorganization of the Section 5 Unit because the method of counting the number of changes submitted for Section 5 review was improved as a result of procedures adopted after the reorganization. Therefore, increases in the number of changes for the years beginning in 1980 are a reflection of better methods of accounting as well as an indication of increased caseload levels. Moreover, the number of persons assigned to the Section 5 Unit fluctuates during any given year due, in part, to the availability of persons who work as interns, especially during the summer months. The information we have, however, indicates that the number of changes per analyst increased by an average of over 50 percent for FY 1980 and FY 1981 as compared to FY 1978 and FY 1979 (the reorganization of the Section 5 Unit occurred in September 1979, i.e., at about the beginning of FY 1980).

Thus, even if this increase reflects, in part, better accounting of the number of changes received, the improvements introduced by the reorganization have allowed for a substantial increase in the caseload of the paraprofessionals. Further, as a result of the reorganization the paraprofessionals have been able to handle their caseload in a shorter time per submission, to address the facts relating to submitted changes more succinctly, and to provide more cogent analysis of the changes that have been submitted. The reorganization of the Section 5 Unit also was intended to allow for more effective interaction between our analysts and attorneys, and this, in turn, has benefited both our analysis of Section 5 submissions and our litigation of Section 5 cases. While the establishment of the Section 5 Unit in 1976 allowed our attorneys to devote their time to other voting rights enforcement efforts, and therefore had a direct impact on the number of cases litigated under Section 2 of the Voting Rights Act, it is not clear that the reorganization of the Section 5 Unit in 1979 had, or could have, a similar impact.

Have the revised guidelines resulted in improved submissions on proposed voting changes? Are there fewer requests proportionately, for additional information? Has there been a general decrease in the length of time cases remain pending due to requests for additional data?

We have not developed a measure of the impact the revised guidelines have had on the submissions we have received under Section 5, nor do the empirical measures suggested by this question appear to indicate what the impact of the revised guidelines may have been since January 1981, when the revised guidelines were published in final form. However, we have noticed, especially with respect to submission of redistricting plans, that submitting jurisdictions now more often tend to set out information they send to us in the same order as, and often citing the various sections of the Section 5 guidelines.

What was the result of the "extensive investigation" to determine whether reasonable opportunities for voter registration are being discriminatorily withheld from minorities in southern states? Was a report issued? If not, why not? Please provide us with the results of the investigation.

The investigation in question was an attempt to determine, in a programmatic way, the facts underlying complaints we had received regarding voter registration activities in 26 Georgia counties. The initial investigation reports on these matters by the FBI demonstrated that the development of such facts requires a more intensive fact-finding effort with respect to the circumstances in each county than can be achieved in such a broad-based approach. Accordingly, we are planning a more focused effort to address these matters on a county-by-county basis. No report was issued in this regard, nor is the issuance of any such report contemplated, because now, as always has been true, our investigations are conducted for the sole purpose of obtaining information that could lead to the filing of lawsuits or other action authorized by the statutes we enforce. Thus, the information we obtain about violations of federal law is made public through proper legal channels rather than by issuing reports. We are unable at this time to provide to the Subcommittee the results of the investigations because the investigations have not been completed.

EPA Enforcement Referrals

As you know, EPA's enforcement functions have been reorganized twice over the last year. This along with an 18 percent cut for enforcement activities raises questions about the Agency's ability to ensure adequate compliance with environmental programs. For example, in 1980 about 250 cases were referred to the Justice Department by EPA while only about 80 were referred in 1981. Why do you think there was such a drop in referrals? Do you think last year's "track record" for EPA was an exception or a trend?

It is accurate that there were fewer referrals in 1981 than in the previous year. This is undoubtedly attributable in part to the natural tendency during transitional periods for reduced levels of activity as new managers consider existing policies, and develop and implement new policies and procedures. Although the overall case referrals decreased during 1981, the number of criminal referrals increased during the same time period.

As you note, EPA's reorganization efforts have been extensive and may also have contributed to the hiatus of case referrals. As EPA develops new policies and procedures, we expect it will identify and refer those cases which are appropriate for judicial enforcement.

QUESTIONS SUBMITTED BY SENATOR WEICKER AT THE REQUEST OF SENATOR JOHN H. CHAFEE

Superfund

The Department of Justice will work cooperatively with EPA in implementing Superfund to pursue responsible parties for clean-up of hazardous waste disposal sites. Has the Department reached agreement on the division of responsibilities between the Department of Justice and EPA in handling such cases? If so, describe the responsibilities of Justice versus EPA and relate how the agencies will work together.

The Department has reached agreement with EPA regarding division responsibilities. Under the Superfund statute and the Executive Order implementing Superfund, the Attorney General is charged with the responsibility for representation of the United States in judicial and quasi-judicial actions. This is in keeping with the Attorney General's plenary authority over litigation to which the United States is a party. In pre-existing cases filed under Section 7003 of the Resource Conservation and Recovery Act (RCRA) in which Superfund has been added, the attorneys from the Environmental Protection Agency (EPA) and the Department work together in the development and prosecution of each case. We anticipate the same cooperative effort between EPA and Department attorneys in future cases.

The initial identification and notification of responsible parties at Superfund sites is being done by EPA staff. Similarly, it is EPA policy to seek voluntary clean-up from responsible parties. Such negotiations are currently being handled by EPA personnel,

except in cases which have been formally referred to the Department of Justice.

How will the Department of Justice receive funding for legal work related to Superfund?

The Department and EPA are currently negotiating an Interagency Agreement (IAG) to reimburse the Department for Superfund-related expenses. Once an IAG is executed, a quarterly bill will be sent to EPA listing the Department's expenditures for Superfund. EPA will then reimburse the Department for those expenditures.

What level of resources did Justice request of EPA in FY 1982 and what level of funding was received?

The Department requested $2,500,000 and 50 positions from EPA for FY 1982. EPA approved a resource level of $2,000,000 and 42 positions.

What level of funding was requested by Justice of EPA in FY 1983 and how many permanent workyears will be devoted to Superfund-related activities?

The Department requested a level of $2,600,000 from EPA for FY 1983. EPA approved a resource request of $2,100,000 reflected in the President's Budget Request for FY 1983. The number of workyears devoted to Superfund-related activities will depend on the amount of time the Department expends in the litigation of Superfund cases.

How many Superfund-related cases have been referred to the Department by EPA during this fiscal year and during FY 1981?

The Division has not received any new Superfund enforcement referrals from EPA since the enactment of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) on August 14, 1981. However, the Division has received approximately seven defensive cases during that time where the Government is being sued under the Superfund statute.

In the interim, the Division has reviewed its existing Resource Conservation and Recovery Act (RCRA) hazardous waste cases to determine where Superfund counts might appropriately be added. Of the existing cases filed under Section 7003 of RCRA, EPA has requested the Department to add counts under Section 106 of CERCLA in 16 cases. The Department has amended eight of these complaints. In the remaining eight cases, amendments are expected in the near future consistent with the litigation strategy in each case.

In addition to amending existing RCRA cases to add claims under CERCLA, the Division continues to work on Superfund-related activities including participation on the National Response Team, advising EPA on the National Contingency Plan, consulting with EPA regarding the development of enforcement guidelines under Section 106 of CERCLA, providing internal Superfund training to staff, negotiating and preparing trials of existing cases to which CERCLA claims have been added, and defending the United States in seven new law suits.

Questions Submitted by Senator Dennis DeConcini

Criminal Division

Your effort to collect the more than $1 billion in civil and criminal legal process debts owed the United States in commendable. However, in the past when we have tried to get some action on these debts, the Department has said these funds were uncollectible as the people owing them had no assets, etc.

What does the $1 billion consist of; for instance; does it include fines?

What analysis have you ma · as to collectibility of the $1 billion?

The Administration and the Attorney General have assigned great importance to the task of collecting debts owed to the United States as a result of defaulted loans or court judgments. As of the end of FY 1981 (September 30, 1981) there was an outstanding balance of $1.1 billion in criminal and civil judgments and civil prejudgment claims. A large portion of the caseload of this debt results from defaulted loans referred to the Department for collection by such agencies as the Veterans Administration and Department of Education. The balance results from litigative action, that is, fines, penalties, judgments and court costs.

Recently, we have been meeting with the U.S. Attorneys to emphasize the importance of the collections effort. The U.S. Attorneys have begun to analyze their debt portfolios to determine what the debt in their district consists of and its potential for collectibility. Additionally, we are working with the Justice Management Division to devise a report which would keep us up-to-date and warn of any inundation of referrals to a particular U.S. Attorneys' office or other such problems. These steps will allow us to better analyze what the debt consists of and whether it can be collected.

Multi-State Regional Intelligence Projects

What role did the Criminal Division have in the decision not to request funding for the state and local drug intelligence grants?

The Criminal Division had an advisory role in this decision, and it supports the Attorney General's position that this program should be financed by state and local governments.

In making the decision not to fund the drug intelligence grants, did the Attorney General initiate the discussions with the states and localities suggested in this Committee's Report last year?

In December 1981 OJARS held a meeting of all project directors. One of the topics of that meeting was the possible assumption of all or a part of the operating costs of the Regional Intelligence networks by state or local governments. The Project Directors communicated that only minimal financial participation, if that,

could be expected. Total assumption or significant participation would be impossible, leading to the demise of the projects, since states are facing critical resource shortages in law enforcement and other services. This issue is currently being reviewed by the Department's Executive Group for the multi-state intelligence program.

OJARS awarded a grant to the Institute for Intergovernmental Research in August of 1980 to perform an extensive evaluation of the Regional Intelligence networks. One component of the evaluation will address the receptivity of state and local officials to these multi-state projects. This issue will be addressed in the final report expected in July 1982.

Fraud Cases Workload and Fines

Why is it that the number of fraud defendants convicted are increasing by 24 percent, but the criminal fines levied is decreasing?

The increase in the number of fraud defendants convicted reflects greater emphasis nationwide on prosecution of fraud matters and the concentration of resources in this area. Since fraud cases take considerable time and effort to investigate and prosecute, the results are not immediate, but are spread over time. The 24 percent increase represents the division's estimate of cases completed from indictments which were returned in prior years plus new cases anticipated for 1984.

As you know, the amount of criminal fines levied is entirely within the discretion of the sentencing judge, within the limits set by statute, and is, therefore, not necessarily correlated with numbers of defendants convicted or prosecutorial resources devoted to fraud matters. We are unable to answer this question but the Administrative Office of the U.S. Court may be able to provide additional information.

Similarily, why is the amount of restitution, civil fines, or refunds to U.S. Treasury attributable to fraud so much less than in 1981?

The Fraud Section's accounting of amounts of restitution, civil fines or refunds to the U.S. Treasury in 1981 reflected large recoveries attributable to cases handled by the section in the area of energy regulation. The projected decrease of civil recovery reflects the decrease in the number of cases handled by the section under the now-repealed energy regulations.

ANTITRUST DIVISION

STATEMENT OF WILLIAM F. BAXTER, ASSISTANT ATTORNEY GENERAL

ACCOMPANIED BY:

KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION
CHARLES R. NEILL, CONTROLLER
JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF

PREPARED STATEMENT

Senator RUDMAN [presiding.] We will now hear from the Antitrust Division. The hearing is still proceeding. We are going to call the Antitrust Division Chief next.

Mr. ROONEY. Mr. Chairman, I understand Mr. Baxter is just arriving.

Senator RUDMAN. All right.

If you would like to proceed with a statement or a summary of your statement, that would be fine.

Mr. BAXTER. Thank you very much. I will make a very brief statement.

I am grateful for the opportunity to be here today to support the administration's budget of the Antitrust Division. We are asking for a budget of $46.5 million and 789 positions. This reflects uncontrollable increases of $3.7 million, approximately. We have a nominal budget increase; that request falls $1.25 million short of covering those cost increases. This means our program reflects decreases of 40 positions for the Antitrust Division and an effective budget reduction on the order of $1.25 million.

A great deal of detail is available on this program reduction, but I will desist at this point and respond to any questions there may be.

Senator RUDMAN. Thank you.

[The statement follows:]

STATEMENT OF WILLIAM F. BAXTER

I appreciate the opportunity to appear in support of the Antitrust Division's budget request for fiscal year 1983 of $46,466,000 and 789 positions. The budget request provides for the following major items:

Uncontrollable increases in the amount of $3,716,000 are required to maintain current operating levels. Major items included in this category are annualization of the 1982 pay increase and the general pricing level adjustment.

Program decreases of 40 positions and $1,250,000 are reflected in this request. These decreases reflect the administration's policy to reduce the size of the Federal workforce while maintaining competition through a strong antitrust enforcement effort.

The proposed reductions would be allocated as follows:

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	Positions and workyears	Amount
Federal appellate activity	-1	-$31,000
Termination and prevention of private cartel behavior	-12	-376,000
Preservation of competitive market structure	-11	-345,000
Antitrust litigation for consumer protection	-1	-31,000
Judgment enforcement	-1	-31,000
Policy analysis, legislation, and training	-5	-155,000
Competition advocacy	-4	-124,000
Executive direction and control	-2	-63,000
Administrative services	-3	-94,000
Total	-40	-1,250,000

This concludes my statement, Mr. Chairman. I will be happy to answer any questions you or other members of the subcommittee may have.

MERGER GUIDELINES ON CURRENT ECONOMIC CONDITIONS

Senator RUDMAN. Your justification indicates that one of your objectives is to modify the merger guidelines that are based on current economic conditions. When will that be complete?

Mr. BAXTER. I would expect that that will be out sometime in the next 60 days.

Senator RUDMAN. Are you consulting at all with the FTC as you are developing these or is this something you are doing pretty much on your own?

Mr. BAXTER. We have had a number of discussions with the Federal Trade Commission. I expect to have another one quite shortly.

Senator RUDMAN. During the interim, while these new guidelines are being developed, essentially what basis are you using to decide whether to proceed or not to proceed against some of these mergers?

Mr. BAXTER. We are proceeding very much in accordance with the basic substance, or content, of the guidelines we will be publishing. Indeed, that does not really reflect a very substantial change from the antitrust policies with respect to horizontal mergers that the division has been enforcing for the last 4 or 5 years, I would say.

A.T. & T. SETTLEMENT

Senator RUDMAN. Would you tell us, Mr. Baxter, what impact the A.T. & T. settlement is going to have on the enforcement program? Is it going to take a significant part of the resources you have available?

Mr. BAXTER. The A.T. & T. settlement as such will not have any substantial impact on the judgment enforcement program. The A.T. & T. corporate reorganization is being handled by a portion of the A.T. & T. trial team under the immediate and close supervision of one of my deputies and myself who have been devoting a great deal of personal time to it.

The underlying 1956 consent decree would, in theory, have been enforced by the judgment enforcement section had there been occasion for such enforcement. But I don't believe that any very substantial por-

tion of the judgment enforcement section's resources were ever, in fact, required to be devoted to the 1956 consent decree. So, I think the two things have very little relationship to one another, notwithstanding the verbal connection between the two.

MERGER OF ANTITRUST WITH LEGAL DIVISIONS

Senator RUDMAN. In the past you have maintained the Antitrust Division is a separate account. Of course, it is now being put together with these other accounts. Do you think that is the right thing to do or should we keep it maintained as it was? How do you feel?

Mr. BAXTER. I see no particular justification for the Antitrust Division, of all of the units in the Justice Department, being a separate account. I think it affords more flexibility and opportunity for better management if it is merged and treated the same way as the other litigating divisions.

PROGRAM PRIORITIES

Senator RUDMAN. I think your major testimony in this committee may come after you publish your guidelines, quite frankly. I can go through a lot of empirical data with you today for the record, but I think we may just have you answer some of that for the record.

I think I am, frankly, and I think most of the members of the committee will be much more interested in talking to you about your appropriation after you promulgate those guidelines, because we are all very interested to see what they are and how they will impinge on what has traditionally been the workings of your agency.

Let me ask you about the justification. It ranks the termination and prevention of private cartel behavior program as No. 1 and preservation of competitive market structure is ranked No. 4. Your No. 1 program is losing 12 positions. Your No. 4 program is losing 11 positions.

Can you tell us how those priorities were assessed and what determination was made in respect to budget reductions?

Mr. BAXTER. The priorities simply reflect our best judgment as to the importance to the U.S. economy of different sectors of our activity. I can imagine, for example, that our enforcement efforts against cartel behavior, taking the form they do of felony prosecutions, and at least since I have been here but not exclusively since I have been here, they are resulting in rather severe criminal penalties. If we continue to be as successful as we have been in the last 4 months in these efforts, we will conclude cases that result in criminal sentences for businessmen approaching 10,000 days of incarceration in the coming fiscal year. So I can imagine a circumstance where, because of the efficiency of our past efforts and the rather severe sanctions that are attached, we would succeed in driving cartel behavior to a very low level. And perhaps we will have very few cases simply because we have really gotten that message across to the business community. So I don't think there is any necessary interconnection between the number of bodies one has on a job and the centrality of that job to our overall mission.

The personnel reduction that you are looking at in the budget justification part reflects a redistribution of the people involved in the IBM case and the general reshuffling of people within the Division to cover attrition. But notwithstanding some of the position cuts in cartel activity, as you have pointed out, I have no difficulty whatsoever saying it continues to be the most important part of our activities so far as I am concerned.

Senator RUDMAN. I believe that what we will do is at some subsequent time maybe have you back after your guidelines are published, because obviously that is something that many people are interested in.

Mr. BAXTER. Surely.

ADDITIONAL COMMITTEE QUESTIONS

Senator RUDMAN. We will have continuing hearings in this subcommittee. I am sure the chairman would join me in wanting you to come back at some subsequent date to hear your explanation of your new guidelines, which I think are the most significant thing in your position, and then maybe we can have a better understanding of your budget. I think we will let you off easy this morning, Mr. Baxter.

Mr. BAXTER. Thank you. That is fine. I look forward to doing that.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

FBI Involvement in Antitrust Investigations

Reference is made under the program to terminate and prevent private cartel behavior to investigative techniques such as staff and FBI investigations, civil investigative demands, and grand jury investigations. To what extent was the FBI utilized in antitrust investigations during FY 1981? How many cases were they involved in? How many staff years did they devote to antitrust cases and in what capacity did they participate? Has the relative use of the FBI increased, decreased, or remained the same over the past three fiscal years?

The FBI was utilized in many antitrust investigations during FY 1981. Although we do not maintain records as to the number of such investigations, typical functions performed by the FBI include:

- Conducting interviews of individuals and firms in both initial and advanced stages of both civil and criminal investigations;
- Assisting in document searches and reviewing such documents for possible violations of law and evidentiary material;
- Conducting financial audits and appearing as trial witnesses where appropriate;
- Utilizing sophisticated investigative techniques, which may include consensual and non-consensual electronic surveillance; and
- Reviewing the records of antitrust witnesses and defendants for possible past criminal convictions.

There has been some fluctuation in the amount of work effort expended by the FBI in support of these investigations over the past several years. According to the FBI's records, 10.4 total agent workyears were expended in FY 1981 for cases involving antitrust matters and each such investigation involved a direct request from the Antitrust Division.

Use of Paralegals

To what extent are paralegals used in investigations and document analysis? How many are employed by the Antitrust Division and what is their average salary level compared to staff attorneys? What additional savings are available to the Division through greater use of paralegals rather than using higher paid attorneys to sift through volumes of corporate documents and collate the data?

Paralegal support is heavily utilized by the Antitrust Division. Duties include logging documents, digesting transcripts, performing legal and factual research, preparing draft briefs, memoranda and findings of fact, and organizing materials to be used as evidence. Currently, 79 paralegals are employed by the Antitrust Division in Washington and the field offices. The average salary level of the

paralegals is $21,055 as compared to $42,378 for attorneys. Overall, there is approximately one paralegal for every five attorneys employed.

At the end of 1979, the Antitrust Division had reached a ratio of one paralegal to 3.5 attorneys. At that time, extremely large cases and inquiries were underway, including U.S. v. AT&T, U.S. v. IBM, U.S. v. CBS, et al., the international oil investigation and the ocean shipping grand jury. Since attrition for paralegals generally exceeds that for attorneys, the various hiring freezes that the Division has been operating under during the past two years have resulted in the ratio decreasing to its present 1:5 level. However, since paralegal commitments of the size made in AT&T and IBM are not anticipated in the near future, the number of documents to be screened per case will be smaller and therefore not as many paralegals are necessary as in prior years.

The paralegals currently employed by the Division are, as a group, highly qualified and well experienced in their work, and provide an effective level of legal support for the caseload at hand.

Use of Word Processing Equipment and Computers

What other steps has the Division taken to increase the efficiency and timeliness of investigations such as greater use of word processing equipment and computers?

The Division continues to pursue an aggressive program to increase efficiency through the use of current technology in word processing and automation.

The Division has made significant progress in its effort to standardize word processing systems throughout the organization. At this time, all field offices and much of the Washington headquarters office are using standard procedures and compatible Wang systems. These systems are equipped with telecommunications which allow the rapid exchange of documents throughout the Division. We anticipate 100 percent compatibility by mid-FY 1983.

Computer support is an important resource within the Division. The Division's Information Systems Support Group provides a broad range of litigation support services for virtually all aspects of antitrust matters. The same Wang systems which support our word processing functions are also fully capable minicomputer systems which enable the Division to provide automated support to any requirement regardless of size or complexity. In addition, the Division has a full-service ADP timesharing contract to provide automated services for the largest requirements. Computer support techniques played an important role in the U.S. v. AT&T effort.

These word and data processing systems provide the attorney staff excellent support capabilities and thus contribute to the increased efficiency and timeliness of all aspects of our work.

Bid-Rigging Prosecutions

Relating to the Criminal prosecution of conspiracies to rig bids on public highway and airport construction projects in which 39 corporations and 85 individuals pled guilty. Did all parties plead guilty to felony charges? If not, how many were misdemeanor charges and how many were felony charges?

As of March 12, 1982, 72 corporations and 100 individuals have pled guilty to bid-rigging charges. The first case filed, United States v. Freddie A. Ferrell, (W.D. Tenn., filed December 14, 1979) was a misdemeanor information. All other cases have been felony indictments or informations.

Regarding the nolo contendere pleas from five corporations and four individuals, did the Division oppose these pleas to the court or were they part of plea agreements? What is the Division's policy on opposing or accepting nolo contendere pleas by defendants?

The Division opposed the nolo contendere pleas from the five coporations and four individuals. Absent unusual circumstances, the Division's policy is to oppose all nolo contendere pleas.

Regarding the aggregate jail sentences in excess of 16 years incarceration, how many defendants were actually sentenced to incarceration and what was the average sentence?

As of March 12, 1982, aggregate jail sentences were in excess of 27 years, involving 81 individual defendants. The average jail term is four months.

Several years ago the Division was establishing sentencing recommendation guidelines. Are these in use? If so, how do the sentences handed down compare to what the Division feels is necessary to establish a deterrent effect to future criminal activity?

The sentencing guidelines were promulgated several years ago. While staff attorneys use them as a guide in determining what sentences to recommend, they are not necessarily the determinative factor. While sentences vary from case to case, the Division believes that, for the most part, the sentences handed down recently have been sufficient to establish a deterrent to future criminal activity.

Changes to Premerger Notification Requirements

Reference is made to the premerger notification requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and proposed changes in the notification requirements. What changes have been or are being considered? Are such changes agreed to and coordinated with the FTC?

The premerger notification rules implementing Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 appear at 16 CFR Parts 801-803.

Rulemaking authority under the Act is conferred upon the FTC by Section 7A(d), and that provision requires that the Assistant Attorney General in charge of the Antitrust Division concur in the rules. Section 7A(d) also makes applicable the informal rulemaking procedures of the Administrative Procedure Act (APA), 5 U.S.C. § 553.

Section 553 of the APA requires an agency intending to promulgate rules to publish a "general notice of proposed rule making" in the Federal Register. After notice, an opportunity for comment is provided. Thereafter, the agency may adopt and issue final rules.

Experience with the premerger notification rules promulgated in 1978 disclosed a need to clarify or reformulate certain provisions and to add other provisions to enable the rules to better fulfill their purposes. Accordingly, the FTC, with some input from the Antitrust Division, drafted proposed revisions which were published in the Federal Register on July 29, 1981, 46 CFR 38710. The comment period ended September 28, 1981, and a handful of comments were received.

The proposed revisions that were published for comment are generally quite technical in nature and deal with the following matters:

- Inclusion of "estate of a deceased natural person" within the definition of the term "Entity" in § 801.1[a][2];
- Broadening the definition of "conversion" in § 801.1(f);
- Restating the application of the concepts of "acquiring person" and "acquired person" in specific circumstances;
- Making the waiting period requirements for secondary acquisitions coincide with those for tender offers whenever the primary acquisition is a tender offer;
- Making clear that the acceptance for payment of any shares tendered is the consumation of an acquisition within the meaning of the Act;
- Amending § 801.40 to make explicit that the provisions of that section are to be used in determining the assets of a joint venture or other corporation;
- Providing an exemption from the Act for transactions that are entirely subject to CAB jurisdiction;
- Providing an exemption from the Act for transactions subject to approval by the appropriate regulatory agency pursuant to the Change in Bank Control Act and the Change in Savings and Loan Control Act;
- Providing a partial exemption for acquisitions in connection with the formulation of certain joint venture corporations;
- Amending the sections dealing with acquisitions of or by foreign persons in order to track more closely the minimum dollar value exemption of § 802.20 and to better define tests for determining whether a sufficient nexus with the U.S. exists in a particular foreign acquisition to warrant imposition of a filing obligation;

- Clarifying the section dealing with acquisitions requiring the approval of a federal court in the bankruptcy proceeding;
- Adding a paragraph dealing with incorporating by reference materials from prior filings;
- Clarifying the rule requiring a statement of reasons for non-compliance;
- Revising the rule governing affidavits required to be submitted with the Notification and Report Form;
- Adding a rule to set forth the circumstances in which persons submitting foreign language documents are required to provide English translations;
- Providing increased flexibiity as to where second request responses may be submited;
- Providing additional notification procedures regarding issuance of second requests; and
- Changing the Notification and Report Form so as to clarify which documents filed with the SEC must be submitted.

Have there been instances where one agency has approved and one agency challenged a proposed merger? How were they resolved?

The Antitrust Division and the FTC utilize clearance procedures to determine which of the two will investigate a particular proposed merger. The agency that conducts the investigation makes the decision as to whether the proposed merger will be challenged during the statutory waiting period. Thus, conflicts do not arise between the agencies concerning whether a proposed merger should be challenged.

It should be noted that a decision not to challenge a proposed merger within the statutory waiting period does not, as the question may suggest, constitute "approval" of the merger. Such a decision merely reflects a conclusion that the premerger investigation did not produce evidence warranting the seeking of a preliminary injunction to prevent consummation. Antitrust enforcement authorities are not barred from challenging the merger at a later date.

Role in Consumer Protection

Regarding antitrust litigation for consumer protection, what are the antitrust implications? If the function is not directly part of antitrust law enforcement, why couldn't the function be effectively handled by Justice's Civil and Criminal Divisions?

The primary function of the Antitrust Division, the enforcement of the antitrust laws, is fundamentally a consumer protection effort. The antitrust laws, directed at promoting competition, have the ultimate purpose of encouraging the best possible products and services in the marketplace at the lowest cost and the widest range of choices for consumers.

Accordingly, when the Department considered in 1971 where consumer protection litigation activities should be centralized, the Antitrust Division was a logical choice. Antitrust and other kinds of consumer protection efforts are traditionally combined in one office. For instance, the functions are paired by statute at the Federal Trade Commission; similarly, in numerous state enforcement agencies, the functions also emanate from single offices.

Other reasons supported designating the Antitrust Division as the Division responsible for consumer protection litigation. Not only was the Division staffed with attorneys experienced in both criminal and civil matters, and accustomed to considering matters for which criminal and civil remedies were often options, but the Division had an ongoing, long term relationship with the Federal Trade Commission, a primary client agency for the centralized consumer protection litigation functions. In addition, the Division had traditionally been responsible within the Department for the representation of the Federal Trade Commission in civil penalty cases enforcing FTC cease and desist orders, one of the consumer protection litigation functions to be centralized.

Of the litigation handled under the subheading "antitrust litigation for consumer protection," the cases most directly part of traditional antitrust law enforcement are the civil penalty actions enforcing competition decrees of the Federal Trade Commission and civil penalty actions for violations of permerger notification requirements of the Clayton Act. However, all of the litigation handled under this subheading is, in a broad sense, related to Division interests and goals.

Though the Criminal and Civil Divisions handle, respectively, general criminal and civil work for the Department, centralized responsibility for criminal and civil cases of specific substantive content outside those Divisions is not unique. The Antitrust and Civil Rights Divisions themselves are clear examples of the policy of placing responsibility for both civil and criminal litigation of a specific substantive content in one centralized location. In addition, the Land and Natural Resources Division is responsible for both civil and criminal EPA work, and the Criminal Division is assigned both civil and criminal immigration and Controlled Substances Act cases. Thus, the placement of the responsibilities in the Division is consistent with the general organizational structure of the Department.

Judgment Enforcement Activities

Regarding judgment enforcement, what is the Division's systematic compliance investigation process? Are each of the outstanding decrees prioritized and investigations scheduled? If not, how does the Division intend to meet its objective of obtaining a viable and effective program?

The Antitrust Division has instituted a program for review of all judgments entered in government civil antitrust cases which remain in effect. The program's primary objective is to identify those judgments which have come to have anticompetitive effects, or otherwise disserve the public interest. All of the Division's litigating units, including field offices, are participating in this program.

Staff attorneys reviewing these judgments are also instructed to identify those which may be candidates for enforcement actions. Such decisions may be based upon analysis of competitive conditions within the affected industry, or specific facts developed in a field investigation. This process will target decrees appropriate for compliance investigation and lead to enforcement actions promising procompetitive results.

In addition, the Division has put in place a computerized tracking system to aid in judgment enforcement—the Judgment Enforcement Management Information System (JEMIS). The system is presently operative with respect to recent decrees (mostly those entered within the past ten years) which impose affirmative compliance obligations on defendants. Division enforcement attorneys will use information provided to ensure full and timely compliance with reporting and record-keeping obligations and substantive requirements such as divestitures and technology licensing. Attorneys may also be alerted to defendants whose disregard to affirmative duties may indicate a propensity for violation meriting investigative attention.

Is the judgment enforcement program a strictly headquarter's function or are the division's field offices involved? Are field offices responsible for monitoring specific decrees? If not, wouldn't sharing this responsibility increase the effectiveness of this program?

As noted above, field office staff attorneys are participating in the Judgment Review Project. In addition, primary responsibility for monitoring compliance with specific decrees is assigned to field office staff on a case-by-case basis. Considerations for such decisions include the peculiarly local nature of the industry or violation involved, and field office familiarity with key people in the industry. Also, judgment enforcement attorneys in Washington maintain liaison with field office attorneys from the time a judgment is entered, and upon initiation of any compliance investigation.

We expect to continue sharing monitoring responsibilities in these ways whenever considerations of effective enforcement or cost efficiencies so dictate.

Reference is made to the AT&T settlement. What impact will this settlement have on the judgment enforcement program? Will it encompass a significant part of the judgment enforcement resources?

Under the terms of the proposed consent modification, six months after the entry of the modification, AT&T is to submit a plan of reorganization to the Department for its approval. That plan, in turn, is to provide for a reorganization of AT&T and subsequent divestiture of the 22 Bell operating companies within 18 months after entry of the modification, i.e., 12 months after submission of the plan. Since entry of the consent modification, if at all, is likely to come during the Spring, both AT&T's submission of its reorganization plan and our review of the plan and its subsequent implementation (if approved) are likely to occur almost entirely within FY 1983. During this time, we expect to devote all necessary resources to our implementation of this process. At the same time, we intend to maintain with full vigor our present comprehensive judgment enforcement and review program. At times, the re-

sources devoted to the AT&T settlement may equal or exceed those devoted to the remainder of our judgment program. Resources for supervision of the AT&T settlement efforts during FY 1983 will, however, be derived from the program category "Preservation of Competitive Market Structure" rather than from our Judgment Enforcement category, due to the unique resource requirements arising during FY 1983 under the AT&T settlement.

Performance Reviews

Under administrative services, reference is made to performance reviews of operating units. Are these reviews of litigating divisions and field offices? If so, how many have been completed and what were the findings? If not, how does senior management of the division evaluate the effectiveness and efficiency of operations?

So far, these performance reviews have concentrated on the quality and effectiveness of support services. The Division's senior management evaluates the effectiveness and efficiency of its litigating activities on a continuous basis. One valuable tool used by senior management is the Antitrust Caseload Evaluation System (ACES). This automated system tracks the progress of all Division matters and other activities and records the time charged to each matter by the professional staff. This information is then aggregated and special reports are produced which allow senior managers to evaluate the distribution of resources throughout the Division. Additionally, ACES provides status and resource utilization information to middle management and senior attorneys and also provides information for the budget formulation process. ACES is also used to respond to a variety of ad hoc information needs.

QUESTIONS SUBMITTED BY SENATOR DENNIS DECONCINI

Antitrust Division

Last year the Committee was informed that a total of 33 attorneys were assigned to the IBM and AT&T cases. Was the reduction of 40 positions for 1983 formulated on the settlement of these two cases?

No. The 40 position reduction in 1983 is an across-the-board reduction reflecting the Administration's policy to reduce the federal work force. However, because we anticipated that these two cases would be winding down, the September 1981 revised estimate reflected a substantial dollar reduction in the Reduction of Oligopoly and Monopoly Program, the program now identified as Preservation of Competitive Market Structure. Because Congressional action essentially reduced the budget to the September 1981 request, the savings were applied to those areas in which we were anticipating decreased workload. No positions were eliminated from the March or September 1981 budget request by the Congress, but because of workload and dollar reductions, 68 unfilled and unfunded positions were deleted from the 1982 column of the 1983 budget through a reprogramming action. Out of this total 35 were in the Preservation of Competitive Market Structure program - the program that included the costs of the IBM and AT&T cases.

How many persons have been indicted pursuant to the Division's long-term investigation into bid rigging?

From December 14, 1979 through March 12, 1982, the Antitrust Division initiated 138 criminal prosecutions involving 126 corporate defendants and 153 individual defendants in connection with conspiracies to rig bids on public highway and airport construction projects in ten states.

How many have been convicted and what have been the total amount of the fines imposed on those convicted?

A total of 118 individual defendants have been convicted, pled guilty or pled nolo contendere. They have been fined as follows: one hundred guilty pleas with $670,000 in total fines; fourteen convicted after jury trial with $295,000 in total fines; and four nolo contendere pleas with $70,000 in total fines.

A total of 87 corporate defendants have been convicted, pled guilty or pled nolo contendere. They have been fined as follows: seventy-two guilty pleas with $15,203,000 in total fines; ten convicted after jury trial with $1,855,000 in total fines; and five nolo contendere pleas with $1,150,000 in total fines. Some of the individual and corporate defendants are awaiting sentencing.

Total corporate and individual fines are $19,243,000.

Are the localities that were victimized by the bid rigging suing the convicted firms for treble damages?

In most instances, the various states and municipalities initiate their own debarment proceedings and/or monetary settlements after the Antitrust Division files suit against a contractor. Some states are required by statute to delay legal action until the contractor is either found guilty, pleads guilty or pleads nolo contendere. Other states will immediately institute their own legal action after the Antitrust Division files suit against the contractor. In lieu of debarment proceeding, some states negotiate with the contractor for monetary settlement. Once the settlement is agreed upon, the contractor will be allowed to bid.

Recently, the Division closed its field office in Los Angeles. The Federal Trade Commission is proposing to close four of its 10 field offices. Is there any consultation between the Division and the Commission to insure the highest degree of field antitrust coverage?

There has been no consultation between the Division and the Federal Trade Commission regarding the closing of the field offices. The closing of the Los Angeles office is part of a program, necessitated in part by budgetary constraints, of delegating increased prosecutorial responsibilities for antitrust enforcement to the U.S. Attorneys. The eight attorneys and six support personnel in the Los Angeles office were transferred to the U.S. Attorney's office in Los Angeles where their work includes antitrust matters.

General Administration

STATEMENT OF KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION

ACCOMPANIED BY:
CHARLES R. NEILL, CONTROLLER
JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF

PREPARED STATEMENT

Senator RUDMAN. The next witness will be Kevin Rooney, to bring us the request of the general administration.

If you would like to proceed with a summary of your statement, or however you want to proceed.

Mr. ROONEY. Fine, Mr. Chairman. I will just summarize very briefly the overall request for general administration.

Our total request is for 731 positions and $40,220,000. This is an increase of eight positions and a net decrease of $1,013,000.

The changes basically result from uncontrollable increases of $4.3 million, a transfer to the Justice Management Division of eight positions and $406,000 from our working capital fund operations, and a increase of $262,000 for the Federal justice research program. These increases are more than offset by a program decrease of $6 million for the State and local drug grants program.

That summarizes the overall request. I will be glad to answer any questions.

[The statement follows:]

STATEMENT OF KEVIN D. ROONEY

I am pleased to have the opportunity to appear before you today in suport of the general administration (GA) budget request for fiscal year 1983. The total request provides for 731 positions and $40,220,000, an increase of 8 positions and a net decrease of $1,013,000. The request reflects uncontrollable increases and nonrecurring decreases of $4,319,000; a transfer to the Justice Management Division of eight positions and $406,000 from the systems policy and planning staff, working capital fund operations; and an increase of $262,000 for the Federal justice research program, principally to continue efforts in the areas of immigration policy, drug enforcement, and violent crime. The increases are offset by a program decrease of $6 million for the State and local drug grants program.

The State and local drug grants program, commonly titled the multistate regional intelligence program, provides financial aid to regional drug enforcement programs to establish operational information exchange facilities which primarily involve and serve State and local law enforcement organizations. This administration believes activities of this nature are properly the responsibility of State and local governments and are best controlled and funded at that level. Therefore, in keeping with the emphasis of this administration, no funds are being requested for this program in 1983.

This concludes my statement, Mr. Chairman. I will be happy to answer any questions you or the members of the subcommittee may have.

MULTISTATE REGIONAL INTELLIGENCE PROJECTS

Senator RUDMAN. We will just go through a few things.

First, on the multistate regional intelligence projects, $6 million was originally provided but was reduced to $5.7 million in the continuing resolution. What will remain unexpended at the end of fiscal 1982?

Mr. ROONEY. Based on what we can tell from our monthly expenditure rates to date, we expect about $1.35 million to remain available at the end of the fiscal year, and we can provide that by project.

Senator RUDMAN. I wish you would.

[The information follows:]

State and local drug grant program expected end-of-year unobligated balance

Program	*Amount*[1]
Regional Organized Crime Intelligence Center (ROCIC)	$170,000
Rocky Mountain Information Network (RMIN)	300,000
New England State Police Administrator's Conference	200,000
Mid-States Organized Crime Information Center (MOCIC)	160,000
Western States Information Network (WSIN)	120,000
Mid-Atlantic/Great Lakes Organized Crime Law Enforcement Network (MAGLOCLEN)	180,000
LEVITICUS	220,000
Total	1,350,000

[1] These figures are based on average monthly expenditure rates of projects and anticipated termination dates.

FINANCIAL SUPPORT FROM STATES TO SHARE COST

Senator RUDMAN. Could you tell us if the States have been willing to provide any financial support to share in the cost of these projects?

Mr. ROONEY. They are not providing any direct financial assistance. However, some of them do have certain other resources, such as membership fees and in many of the regional programs personnel are donated from the States and localities.

Senator RUDMAN. Have any efforts been made on the part of the Justice Department to encourage matching funds by the States or otherwise picking up some of the costs of these projects?

Mr. ROONEY. In the past we have made some moves in that direction. However, with the fact that we will be phasing out the program, now we are basically encouraging the States to carry the financial load.

Senator RUDMAN. Last year the committee expressed concern and wanted oversight over these projects and wanted a mechanism set up for it, just some sort of regular oversight. Has that been done?

Mr. ROONEY. Yes; we have within the Department of Justice an oversight group as well as monitoring very closely the audits within this area. The Department's audit staff, which reports to me, has been extensively engaged in a very close review of those grants.

Senator RUDMAN. When will that be completed, the audits you have presently going on? I understand you have an audit in the field right now.

Mr. ROONEY. Yes; actually, there are about three audits going on in the field right now. We anticipate most of those will be completed this month or early next month.

Senator RUDMAN. I think perhaps we may like to have that submitted to us as part of our record. We would like to see that.

Mr. ROONEY. Sure. We will submit that when the audit is provided.

[The information follows:]

AUDIT REPORTS FOR THE STATE AND LOCAL DRUG GRANT PROGRAM

Currently, the departmental audit staff is in the process of finalizing audits for the following projects: Rocky Mountain Information Network; Regional Organized Crime Information Center (Memphis); and New England State Police Administrative Council.

These reports are expected to be issued by July 1982. When these reports are available, they will be forwarded to the committee.

RESEARCH AND STATISTICS REQUEST

Senator RUDMAN. You have a $37 million budget request for research and statistics. Is it necessary then to continue the Federal justice research program?

Mr. ROONEY. The research and statistics appropriation request is within our Office of Justice Assistance, Research, and Statistics, which is primarily focused on State and local grant programs for research in the justice area. The Federal justice research program is a smaller program, a much smaller program. We are asking in the neighborhood of $800,000, which is primarily for research at the Federal level initiated by the Attorney General to respond to needs of the Department. For instance we will be looking at immigration policy and narcotics enforcement.

Senator RUDMAN. Was there a $15,000 project here, some sort of conference in Williamsburg? What was that conference?

Mr. ROONEY. The Williamsburg Conference on the Judiciary and Law Enforcement. It has been held for the last 5 years. The Federal justice research program I believe this year funded about half of the cost, about $15,000. This is where the Attorney General, Chief Justice, Members of the Senate and House Judiciary Committees, discuss things.

Senator RUDMAN. Why don't you provide us a record of all of your projects that you have funded with 1981 and 1982 moneys, and also if you know any planned 1982 and 1983 projects, so we could have that for the record.

Mr. ROONEY. We would be pleased to do that, Mr. Chairman.

[The information follows:]

Projects for fiscal years 1981, 1982, and 1983

Fiscal year 1981 obligations

Project:	*Amount*
Cost of civil litigation	$147,000
PROMIS/COURTRAN/SENTRY	63,000
Council on the role of the courts	36,000
Sentencing research project	25,000
Seminar on the administration of justice	10,000
State court decisions	10,000
Conference on the cost of crime	6,000
Reanalysis on family and commercial law report	1,000
Federal career criminal program	288,000

Fiscal year 1982 obligations: Year-to-date

Project:	Amount
National Conference on the Role of the Courts	$37,000
Law enforcement strategy papers	4,000
Seminar on the administration of justice 5	15,000
Retroactive funding project on release pending appeal	10,000

Other possible projects to be funded in fiscal year 1982 or fiscal year 1983

Project:	Amount
Assessing recomendations of the AG's Task Force on Violent Crime	$350,000
Study to use Federal and State correctional facilities more effectively	190,000
Strategies to coordinate FBI and DEA to stop the flow of hard drugs	275,000
Assessing the cost imposed on the Department by Federal regulations	230,000
Continue the Federal career criminal program	150,000
Devising strategies to protect witnesses and encourage greater citizen cooperation	150,000
Strategies to apprehend fugitives who flee	100,000
Research on possible reforms to Administrative Procedures Act	125,000
Conference on the relationship of the Chief Justice and the administrative aspects of the court	10,000
Operations of cross-deputization programs and their effect on coordination between Federal and State and local prosecutors	110,000
Assessing new strategies to improve the collection of immigration statistics	350,000
Assessing the role of private enforcement activities	100,000
Research on strategies for juveniles with histories of violence	90,000

SUBCOMMITTEE RECESS

Senator RUDMAN. Thank you very much.

The hearing will recess. The subcommittee will stand in recess until tomorrow morning at 9:30 a.m.

[Whereupon, at 11:30 a.m., Tuesday, March 2, the subcommittee was recessed, to reconvene at 9:30 a.m., Wednesday, March 3.]

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

WEDNESDAY, MARCH 3, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:35 a.m., in room S-146, the Capitol, Hon. Lowell P. Weicker (chairman) presiding.

Present: Senator Weicker.

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

STATEMENT OF HON. WILLIAM H. WEBSTER, DIRECTOR

ACCOMPANIED BY:

LEE COLWELL, EXECUTIVE ASSISTANT DIRECTOR—ADMINISTRATION
L. CLYDE GROOVER, JR., INSPECTOR-DEPUTY ASSISTANT DIRECTOR, ADMINISTRATIVE SERVICES DIVISION
KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION
CHARLES R. NEILL, CONTROLLER
JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF

INTRODUCTION OF ASSOCIATES

Senator WEICKER. First of all, let me wish a good morning to the Director. It is nice to have you here. Would you introduce the gentlemen with you?

Mr. WEBSTER. Lee Colwell, Executive Assistant Director, Administration; Kevin Rooney, Assistant Attorney General for Administration; Mr. L. Clyde Groover, Jr., who heads our financial and budgetary programs here and is Deputy Assistant Director of the Administrative Services Division; and then, of course, Charles Neil" and John Shaffer.

Senator WEICKER. Don't worry, Kevin, it is going to be a better day. [Laughter.]

Mr. ROONEY. Thank you, Mr. Chairman. [Laughter.]

Senator WEICKER. Our first request today is that of the Federal Bureau of Investigation. The amount requested is $799,331,000, the amount of the 1983 base, and provides for 19,048 positions.

OPENING STATEMENT

Judge Webster, we would be pleased to hear your statement with regard to the request.

Mr. WEBSTER. Thank you, Mr. Chairman.

The FBI's appropriation request for fiscal year 1983 is for 19,048 full-time permanent positions and budget authority of $799,331,000. The positions requested represent 8,021 special agents and 11,027 support personnel. Our total budget authority request represents the funding level under which we currently operate, plus increased funding for the recently enacted Federal pay raises and other uncontrollable cost increases, less $82,000 for reduced positions.

Our fiscal year 1983 budget includes no request for program enhancement funding and, in fact, represents 408 fewer positions than appropriated for fiscal year 1982. The minimal amount of reduced funding applicable to the 408 fewer positions results from cost absorptions and underfunding in prior years. Since 395 of these are unfunded and unfilled positions, we will in essence be operating at the same level in fiscal year 1983 as we are in fiscal year 1982. Of the 408 fewer positions, 287 are support positions which will not be filled in our fingerprint identification program and our records management program, and 121 are special agent positions which will not be filled in our white-collar crime, general property crime, and records management programs.

With the resources requested for fiscal year 1983, the FBI will continue to emphasize its investigative programs directed against foreign counterintelligence, organized crime, and white-collar crime. In addition, we will be placing investigative emphasis on violent crimes within our jurisdiction and we will be working more closely with the Drug Enforcement Administration on drug matters.

Mr. Chairman, during the past calendar year the FBI has achieved major accomplishments across the board in its investigative programs. Although I am not free to discuss them in open session, accomplishments in our foreign counterintelligence program have been noteworthy. I would like to highlight a few accomplishments in our criminal investigative programs.

FBI counterterrorism investigations have resulted in significant achievements. Ten members of the Croatian national resistance movement were arrested and indicted on a variety of Federal charges. Seven members of the anti-Castro Cuban group alpha 66 were arrested. Six pleaded guilty to Federal violations. Charges are still pending against the seventh. Ten individuals were arrested because of their involvement in a plot to attack the Caribbean Island of Dominica in violation of neutrality, gun control, and munitions control statutes. Nine participants were convicted; one was acquitted.

Turning to our Organized Crime Program, I am pleased to report to you, Mr. Chairman, that during calendar year 1981, 14 recognized "bosses" of the 25 traditional organized crime families were indicted or convicted. Included in this unprecedented statistic are the "bosses" of the New Orleans organized crime family; the Columbo and Genovese families of New York; and the Buffalino family of Pennsylvania, who

have all been convicted. Indicted were the "bosses" of the organized crime families in Boston, Detroit, Cleveland, Tampa and Chicago. With regard to the Bonnano family in New York and the organized crime families in Kansas City and Milwaukee, not only have the "bosses" been indicted but also the ruling hierarchies of these families.

As you know, Mr. Chairman, the FBI is becoming increasingly involved in the investigation of narcotics violations. On January 21, the Attorney General announced a much closer affiliation between the FBI and the Drug Enforcement Administration and that the FBI will be given concurrent jurisdiction with DEA over drug offenses. An example of this type of cooperative effort is a recent investigation, code named "BANCOSHARES." This case was conducted jointly with DEA by our Miami FBI office. This investigation represented a coordinated probe of seven narcotics networks and the laundering of large volumes of money believed to result from illegal drug transactions. This investigation alone has led to 66 indictments, the seizure of 7 airplanes, 3 residences, a 4,600 acre ranch and over $1 million in cash, plus the freezing of bank accounts representing $11 million. Trials resulting from this investigation are currently in progress.

Within the white-collar crime program, the FBI continues its efforts against public corruption. In the State of Oklahoma, 11 convictions and 152 plea agreements have been obtained against present and former county officials and vendors involved in kickbacks and illegal procurement arrangements. This case, code named "CORCOM," has in excess of 300 identified subjects at this time.

In our fugitive program, an area that directly impacts on violent crime, our agents located and arrested two of our top ten fugitives on the same day.

Operation "Greenthumb," one of our general crime program undercover projects conducted in conjunction with the Washington Metropolitan Police, was targeted against fences of stolen precious metals and their associates who cloaked their illegal activities with legitimate secondhand businesses. This operation resulted in the recovery of property valued at over $2 million and the solution of over 200 Washington, D.C., area burglaries. While these are just a few of our investigative accomplishments for 1981, other investigations now in progress will yield results of equal importance.

An area of great concern to me and the Members of the Congress is the fingerprint identification program. As you know, on October 1, 1981, we were forced to suspend the processing of certain applicant and licensing fingerprint checks because of budgetary and personnel constraints. Our plan is to reinstate that process beginning on October 1, 1982, under a reimbursable funding arrangement. I can assure you that we are doing all in our power to reinstate this service as soon as possible.

SUPPORTING EXHIBITS

Mr. Chairman, that concludes my opening remarks. I have more detailed information with supporting exhibits which I would like to submit for the record. I, or my associates here, will now be happy to answer any questions that you or any member of the committee might have.

Senator WEICKER. Thank you very much, Bill.

[The statement follows:]

NARRATIVE DETAIL AND SUPPORTING EXHIBITS

Fiscal Year 1983 Appropriations Request
Federal Bureau of Investigation

The following exhibits and narrative detail depict the funding requested for Fiscal Year 1983 and comparisons of this request with those of previous years:

EXHIBIT No. 1

COMPARISON: FUNDS AND PERSONNEL REQUIRED
FISCAL YEAR 1982 VS. 1983

	FISCAL YEAR 1982	FISCAL YEAR 1983	INCREASE (+) DECREASE (-)	
PERSONNEL (FULL-YEAR EMPLOYEES):				
FBI Headquarters:				
Special Agents ..	799	793	(-)	6
Support Personnel	6,682	6,395	(-)	287
Total (FBIHQ) ..	7,481	7,188	(-)	293
Field:				
Special Agents ..	7,107	6,992	(-)	115
Support Personnel	4,398	4,398		---
Total (Field) ..	11,505	11,390	(-)	115
Total:				
Special Agents ..	7,906	7,785	(-)	121
Support Personnel	11,080	10,793	(-)	287
Total (FBIHQ) and Field)	18,986	18,578	(-)	408
FUNDS:				
PERSONNEL COMPENSATION	$476,304,000	$507,081,000	(+)	$30,777,000
OTHER EXPENSES:				
Personnel Benefits	$57,235,000	$66,559,000	(+)	9,324,000
Benefits to Former Personnel.....	---	1,000,000	(+)	1,000,000
Travel and Transportation of Persons	18,052,000	19,793,000	(+)	1,741,000
Transportation of Things	3,300,000	4,860,000	(+)	1,560,000
Standard Level User Charges (SLUC)....	46,033,000	49,676,000	(+)	3,643,000
Communications, Utilities, and other Rent.....	36,281,000	43,235,000	(+)	6,954,000
Printing and Reproduction	1,946,000	2,080,000	(+)	134,000
Other Services	31,978,000	32,639,000	(+)	661,000
Supplies and Materials	25,742,000	28,147,000	(+)	2,405,000
Equipment	42,558,000	43,831,000	(+)	1,273,000
Insurance Claims and Indemnities ..	110,000	360,000	(+)	250,000
Unvouchered	70,000	70,000		---
SUBTOTAL, OTHER EXPENSES.....	$263,305,000	$292,250,000	(+)	28,945,000
TOTAL, ALL EXPENSES.	$739,609,000	$799,331,000	(+)	$59,722,000

EXHIBIT No. 2

SUMMARY OF CHANGES, FISCAL YEAR 1983

Uncontrollable increases:	
1. 1982 Pay increases	24,146,000
2. Executive level pay increases	2,227,000
3. Annualization of additional positions allowed in 1982	550,000
4. Within-grade increases	5,330,000
5. Health benefits costs	1,792,000
6. Federal Employees' Compensation Act (FECA) Unemployment Benefits	1,000,000
7. Standard Level User Charges (SLUC)	3,645,000
8. GSA recurring reimbursable services	864,000
9. Postal Service increases	1,280,000
10. Federal Telecommunications System (FTS)	1,499,000
11. Travel Costs - Airfare increases	1,358,000
12. GPO printing cost	108,000
13. Telecommunications cost	2,095,000
14. General pricing level adjustments	7,657,000
15. Gasoline cost increases	1,075,000
16. Equipment cost increases	1,389,000
17. Transfer cost increases	5,970,000
18. Upgrading of new hires	2,000,000
19. Claims	250,000
Total uncontrollable increases	64,235,000
Decreases:	
1. Federal Employees' Compensation Account (FECA) - Workers' Compensation	-106,000
2. Non-recurring equipment cost	-3,075,000
3. Non-recurring research funds	-500,000
4. Non-recurring consultant studies	-200,000
5. Non-recurring AIDS studies	-550,000
6. Proposed reduction in Records Management	-82,000
Total decreases	-4,513,000
Overview:	
Total uncontrollable increases	$64,235,000
Total decreases	-4,513,000
Overall increase for 1983	$59,722,000

EXHIBIT No. 3

U. S. Department of Justice
Federal Bureau of Investigation

Funding Request By Classification
Fiscal Year 1983
(In Thousands Of Dollars)

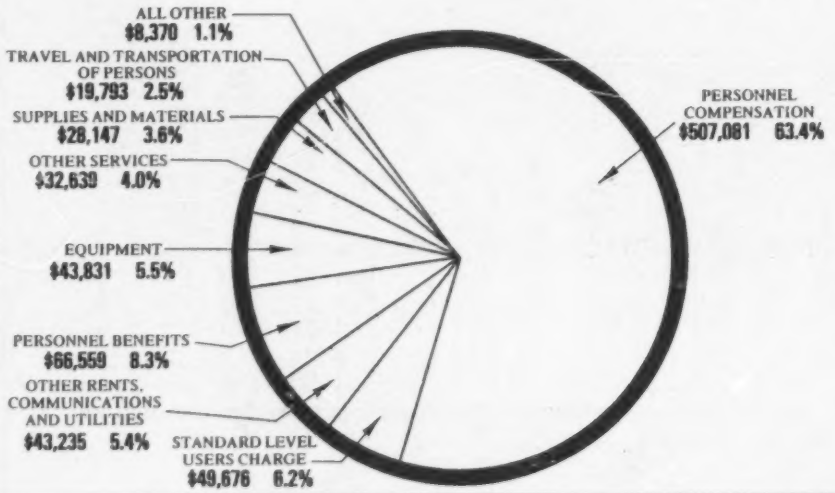


EXHIBIT No. 4

U. S. Department of Justice
Federal Bureau of Investigation

Funding Request By Function
Fiscal Year 1983
(In Thousands Of Dollars)

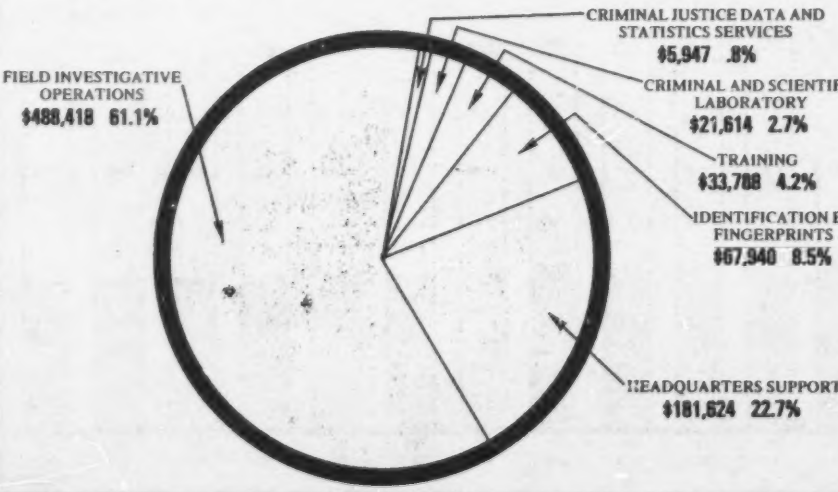


EXHIBIT No. 5

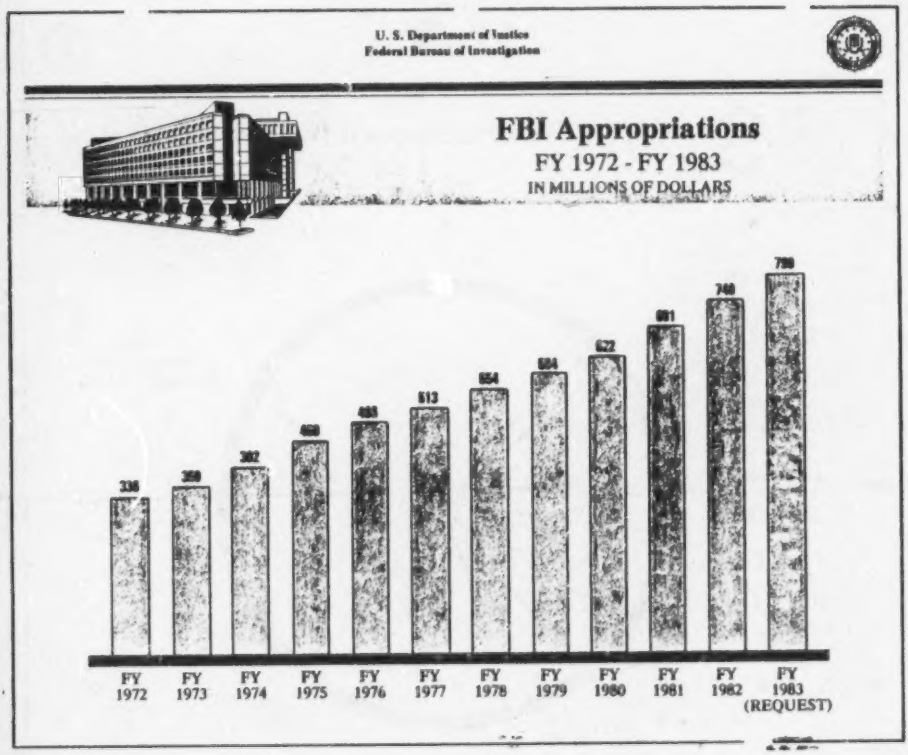
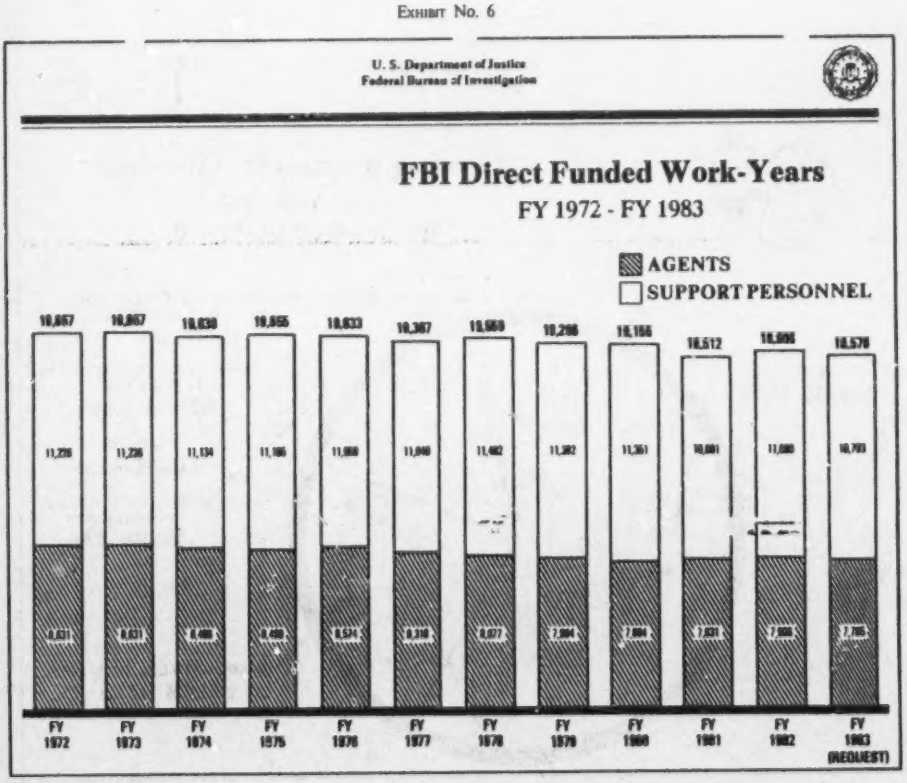


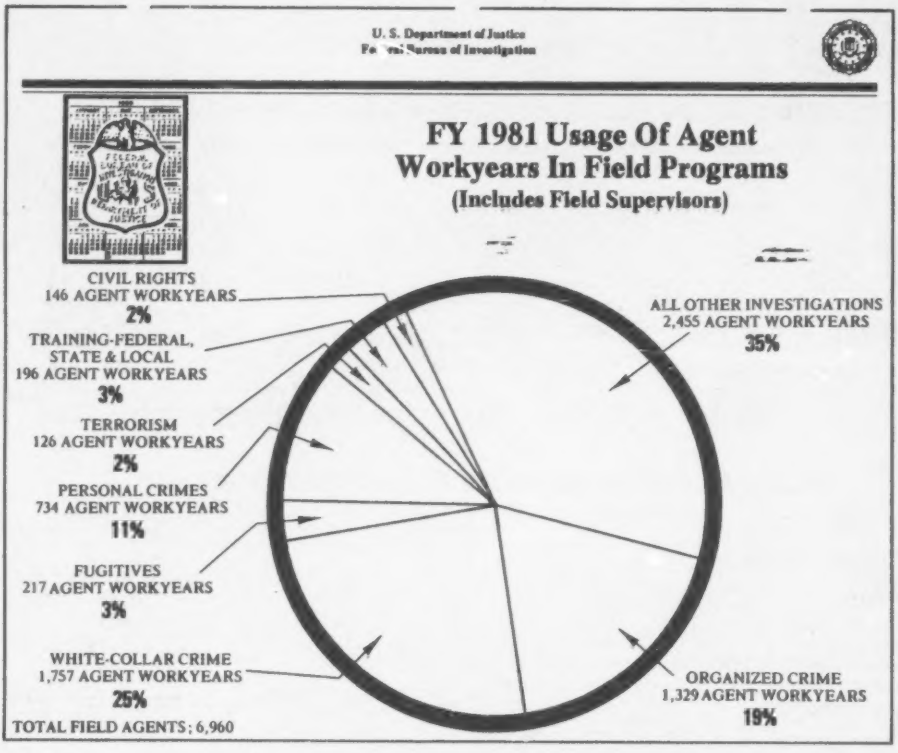
EXHIBIT No. 6



INVESTIGATIVE PROGRAMS

THE FBI'S PRINCIPAL BUDGET ACTIVITY, CRIMINAL, SECURITY, AND OTHER INVESTIGATIONS, IS DIVIDED INTO EIGHT GENERAL FIELD PROGRAM AREAS. THESE AREAS AND THE FISCAL YEAR 1981 UTILIZATION OF AGENT WORK-YEARS THEREIN ARE SHOWN IN THE FOLLOWING EXHIBIT:

EXHIBIT No. 7



EQUAL EMPLOYMENT OPPORTUNITY WITHIN THE FBI

THE FBI IS COMMITTED TO CONTINUE THE EFFORTS TO INCREASE ITS REPRESENTATION OF MINORITIES AND WOMEN, WITH PARTICULAR REGARD TO THE SPECIAL AGENT POSITION. A SIGNIFICANT NUMBER OF MINORITY AND FEMALE SPECIAL AGENTS HAVE BEEN SELECTED FOR NEW AGENT'S TRAINING IN THE PAST SEVERAL YEARS, ALL OF WHOM MEET OUR QUALIFICATION STANDARDS. THIS IS BEING ACCOMPLISHED BY TARGETING RECRUITMENT EFFORTS AT ALL LOGICAL SOURCES. FOLLOWING IS AN EXHIBIT WHICH CONTAINS INFORMATION ON OUR EQUAL EMPLOYMENT OPPORTUNITY ACCOMPLISHMENTS.

EXHIBIT No. 8

RECRUITMENT OF MINORITIES AND WOMEN

Minority and Women Special Agents as of 1/31/82

	Field	FBIHQ	Total	Since 2/28/78 Gain or Loss	Since 2/28/78 Percentage Increase
Black	213	24	237	+93	64.6
Hispanic	236	14	250	+95	61.3
Am. Indian	26	4	30	+15	100.0
Asian Am.	50	6	56	+22	64.7
Women	354	7	361	+267	284.0

Percentage of Minority and Women Special Agents as of 1/31/82

Group	Number of Men	Percent of Total	Number of Women	Percent of Total	Total by Group	Percent of Total
White	6847	92.7	328	90.8	7175	92.6
Black	219	3.0	18	5.0	237	3.1
Hispanic	238	3.2	12	3.3	250	3.2
Am. Indian	28	.4	2	.6	30	.4
Asian Am.	55	.7	1	.3	56	.7
TOTALS	7387	100.0%	361	100.0%	7748	100.0%
All Minorities	540	7.3%	33	9.2%	573	7.4%

Percentage of Minority and Women Support Personnel

	TOTAL	PERCENT
Support Personnel	10419	100.0%
Men	3095	29.7%
Women	7324	70.3%
Black	3224	30.9%
Hispanic	245	2.4%
American Indian	25	.2%
Asian American	116	1.1%
All Minority	3610	34.6%

ORGANIZATION OF THE FBI

THE FBI IS A FIELD-ORIENTED ORGANIZATION IN WHICH TEN DIVISIONS AT FBI HEADQUARTERS PROVIDE PROGRAM DIRECTION, SUPPORT SERVICES, AND COORDINATION TO 59 FIELD OFFICES, 426 RESIDENT AGENCIES, AND 12 FOREIGN LIAISON POSTS. EACH FIELD OFFICE HAS AN AGENT IN CHARGE, WHO IS RESPONSIBLE FOR DEPLOYMENT OF PERSONNEL SO AS TO HANDLE EFFECTIVELY ALL FBI MATTERS WITHIN ITS GEOGRAPHICAL TERRITORY. AGENTS AT OUR LIAISON POSTS ABROAD ACT AS A LIAISON IN CONNECTION WITH CRIMINAL AND SECURITY MATTERS WITHIN THE FBI'S JURISDICTION. OF THE TOTAL AMOUNT REQUESTED BY THE FBI FOR 1982, 61.3 PERCENT, OR $453,184,000, IS FOR FIELD INVESTIGATIVE

OPERATIONS. THIS DOES NOT INCLUDE HEADQUARTERS SUPPORT WHICH CONTAINS ADP OPERATIONS, INVESTIGATIVE DIRECTION AND TECHNICAL FIELD SUPPORT AND EQUIPMENT FUNDING, ALL OF WHICH SUPPORT BOTH FIELD AND HEADQUARTERS ACTIVITIES. THERE ARE INCREASES IN THE FIELD FOR OUR TOP THREE PRIORITY PROGRAMS, WHITE- COLLAR CRIME, ORGANIZED CRIME AND FOREIGN COUNTERINTELLIGENCE. EXHIBITS FOLLOW THAT SHOW THE ORGANIZATION OF FBI HEADQUARTERS, THE LOCATION OF FIELD OFFICES AND FOREIGN LIAISON POSTS, AND ADDITIONAL INFORMATION CONCERNING PERSONNEL ASSIGNED TO THE FOREIGN POSTS:

EXHIBIT No. 9

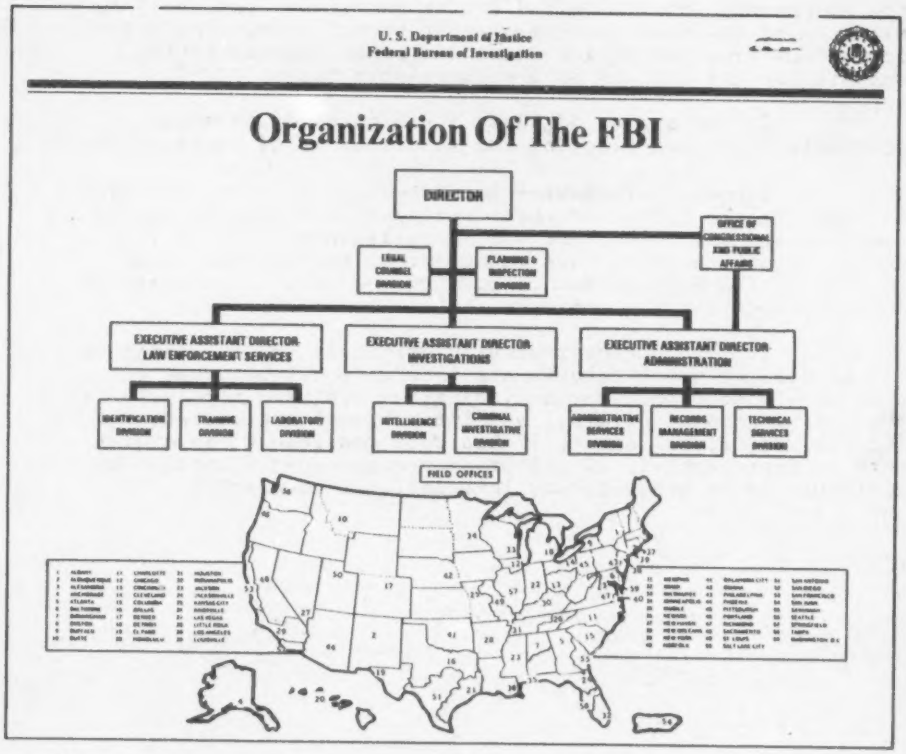


EXHIBIT No. 10

FOREIGN LIAISON

LEGAL ATTACHES

This program is designed to provide a continuing and prompt exchange of information and assistance with foreign law enforcement and security agencies in order to insure that the responsibilites of the FBI in the applicant, criminal, domestic security, foreign counterintelligence, and international terrorist fields are met. By way of reciprocation, the FBI will assist cooperative foreign agencies with their legitimate and lawful investigative interests in the United States.

For over 35 years the FBI has maintained posts abroad known as legal attache offices. There are currently 14 such posts covering more than 80 countries, enabling the 59 field offices and FBI Headquarters to receive a constant and prompt exchange of criminal and security type information. They develop and maintain close liaison with relevant and duly authorized law enforcement and security/intelligence agencies of the countries covered to insure that the domestic responsibilities of the FBI are met in a timely and professional manner.

The program provides the liaison necessary in order to locate and/or effect the return of United States fugitives; locate and return stolen property, including vehicles, heavy equipment, airplanes, and art objects; and to enable the FBI to fulfill its statutorily mandated responsibilities in the applicant, criminal, foreign counterintelligence, and domestic and international terrorism fields.

Prior to posting FBI personnel in foreign countries, the concurrence of the United States Ambassador and the Foreign Ministry of the host government must be obtained. The State Department provides office space and other administrative support for the program on a reimbursable basis.

In the spring of 1982, a new post in Canberra, Australia will open bringing the total number of posts to 14.

Through information furnished by an FBI double agent, a legal attache furnished the identity of a Western European resident who was in contact with intelligence officers in another country. With this information, the intelligence service of the Western Europe country was able to initiate an operation against the resident.

It is apparent that with criminals and intelligence officers alike their targets are international in scope and that worldwide communication facilities are used regularly in the furtherance of criminal and intelligence activities. Through effective liaison, it has been possible to interdict some of these activities and prosecute many cases thought by violators to be protected by international boundaries.

EXHIBIT No. 11

U. S. Department of Justice
Federal Bureau of Investigation

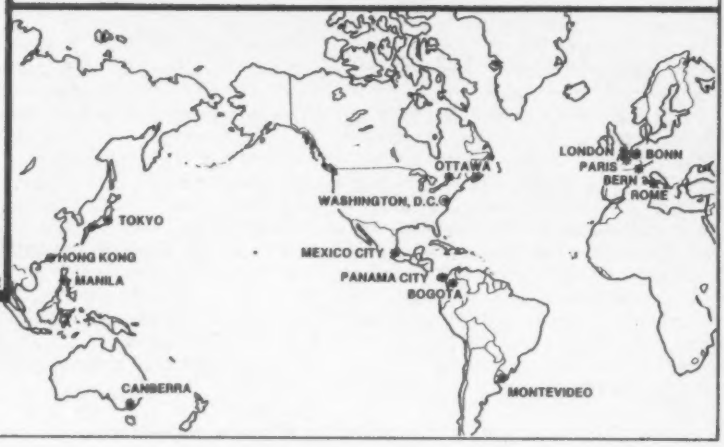
FBI Foreign Liaison Operations

The FBI maintains liaison posts abroad in 14 countries. These offices function in a liaison capacity in connection with criminal and security matters involving the Bureau's domestic responsibilities. In addition, the Bureau belongs to one international security committee and corresponds with police agencies all over the world except in countries controlled by the communists. In addition to the activities of its representatives abroad, the Bureau exchanges certain types of information with, and where warranted, arranges to have investigations conducted in the U. S. for, law enforcement and intelligence agencies in many foreign countries on a reciprocal basis.

NUMBER OF FBI PERSONNEL STATIONED ABROAD

	Special Agents	Support Personnel
BERN Switzerland	1	1
BOGOTA Colombia	2	2
BONN Germany	4	4
CANBERRA Australia	1	1
HONG KONG British Crown Colony	1	1
LONDON England	3	3
MANILA Philippines	1	1
MEXICO CITY Mexico	4	4
MONTEVIDEO Uruguay	1	1
OTTAWA Canada	2	2
PANAMA CITY Panama	1	1
PARIS France	2	2
ROME Italy	2	2
TOKYO Japan	1	1
TOTALS	26 Special Agents	26 Support Personnel

TOTAL PERSONNEL-52



KEY

* FBI REPRESENTATIVES STATIONED IN AMERICAN DIPLOMATIC ESTABLISHMENTS OUTSIDE THE UNITED STATES

JANUARY 1, 1982

ORGANIZED CRIME

ONE OF THE FBI'S TOP PRIORITIES IS THE INVESTIGATION OF ORGANIZED CRIME. IN 1983, EFFORTS IN THIS AREA WILL REQUIRE $90,428,000 AND 2,107 POSITIONS.

DURING THE PAST FISCAL YEAR, 19 PERCENT OF THE FIELD AGENT TIME WAS SPENT ON ORGANIZED CRIME INVESTIGATIONS.

WHITE-COLLAR CRIME

WHITE-COLLAR CRIME INVESTIGATIONS CONSTITUTE ANOTHER TOP PRIORITY OF THE FBI. AS IN ORGANIZED CRIME, WHITE-COLLAR CRIME SOMETIMES INVOLVES PUBLIC CORRUPTION. A TOTAL OF $124,537,000 AND 2,907 POSITIONS WILL BE NEEDED FOR WHITE-COLLAR CRIME IN FISCAL YEAR 1983. DURING FISCAL YEAR 1981, THE FBI EXPENDED 25 PERCENT OF ITS FIELD AGENT WORK-YEARS ON WHITE-COLLAR CRIME INVESTIGATIONS. ORGANIZED CRIME AND WHITE-COLLAR CRIME MATTERS ARE DISCUSSED IN THE FOLLOWING EXHIBITS:

EXHIBIT No. 12

ORGANIZED CRIME INVESTIGATIONS

An organized crime investigation is targeted against a member or members of an organized crime group involving violation of Federal statute(s) specifically aimed at racketeering activities. For the purpose of managing these investigations, an organized crime group is defined as any group having some manner of formalized structure whose primary objective is to obtain money through illegal activities and maintains its position through the use of violence or threat of violence, corrupt public officials, graft and extortion, and has a signficant adverse impact on the people in its locale or region, or the country as a whole. The thrust of the organized crime program is targeted against individuals comprising the major organized crime groups across the country.

Funding for this program for fiscal year 1983 will provide for an imaginative, responsive, and effective investigative approach directed against the organized criminal element at a sustained level. This funding will provide for continued coverage of already existing programs and permit continued penetration into areas deserving additional investigative attention based on program review. Among those targeted are hoodlum infiltration of legitimate business; labor racketeering; corruption; arson-for-profit; loansharking; and pornographic operations which are national in scope, involve major organized crime figures, or which deal in the use of children. The funding will also permit the FBI to continue to utilize resources in support of joint FBI/Drug Enforcement Administration Investigations targeting organized crime related narcotics cartels. Additionally, funding will enable the FBI to continue its assistance to local, state, and other Federal agencies engaged in the fight against illegal narcotics and drugs. This will be accomplished through the development and dissemination of narcotics information stemming from organized crime activities being investigated by the FBI.

Implementation of a system to enhance organized crime intelligence-gathering capabilities has continued through the use of a computerized data processing network known as the Organized Crime Information System (OCIS). The primary objective of the system is to improve the FBI's ability to collect, analyze, and use investigative data in furtherance of the successful prosecution of organized crime subjects. Funding dedicated to the organized crime program will enable implementation of this system at additional field divisions during fiscal year 1983 and provide for resources in support of personnel to operate this system.

In addition to maintaining active investigative programs targeted at traditional racketeering activities of gambling, corruption, and loansharking, the FBI has continued with a number of programs from the past year, aimed specifically at combating labor-racketeering, hoodlum infiltration of business, arson-for-profit, narcotics trafficking, and major pornography operations. The cumulative goal of these programs is to interdict systematically and progressively the sphere of organized crime influence and to reduce its impact on American society.

The impact of organized crime

While not inclusive, the following are some of the major areas wherein organized crime impacts on society as a whole:

Corruption undermines the country's civic, judiciary, legislative, and law enforcement bodies, disfranchising citizens of the protection and the governmental functions to which they are entitled.

Businessmen find themselves in competition with racketeers who pour money from their illicit enterprises into legitimate industry and use these untaxed funds to undercut the operations of competitors not enjoying this unfair advantage.

The tax base itself is eroded by significant amounts of dollars being siphoned from the economy without any commensurate return to local, state, or Federal governments.

Gambling and narcotics addicts commit a large portion of street crimes currently plaguing the country as they try to supply the needs of their illegal habits.

Labor-racketeering and cartage thefts result in increased insurance rates and transportation costs. They also add substantially to the prices consumers pay for their merchandise.

The drug problem

Pursuant to several proposals initiated by President Reagan and designed to curb narcotics trafficking, the FBI and DEA are developing a closer working relationship and are directing their combined resources against major national and international narcotics targets. Although DEA has primary investigative jurisdiction over narcotics violations, the FBI assists DEA, U. S. Customs, and state and local narcotics control agencies throughout the country, by the development and timely dissemination of intelligence data concerning drug trafficking. Additionally, the FBI readily joins with DEA, U. S. Customs, and state and local agencies in investigations of major narcotics cartels when that cartel's criminal activities include violations under the primary jurisdiction of the FBI. The FBI's role in narcotics investigations has been enhanced through the conduct of financial flow investigations. Through this technique, the large amounts of monies derived from narcotics can be detected and through the civil forfeiture procedures of the Racketeer Influenced and Corrupt Organizations (RICO) Statute, can be seized. Additionally, the FBI and DEA have developed an agreement whereby the FBI will assist in DEA locating and apprehending major DEA fugitives.

The infiltration problem

Hoodlum infiltration of labor unions is one of the top priority areas targeted for investigation by the FBI. The primary objective of this program is to identify the organized criminal and corrupt elements involved in the labor field and to successfully prosecute those individuals connected with racketeering activities. Investigations under this program are targeted at uncovering such activities as payoffs and kickbacks resulting from the awarding of contracts or the conduct of day-to-day union activities; the embezzlement of union funds; instances of extortion; and the mishandling of union loans.

Likewise, hoodlum infiltration of legitimate business is a priority investigative area targeted by the FBI. To date, investigations have revealed allegations that such investments not only provide the hoodlums with "show money" for tax purposes, but also make it possible for those involved to "launder" illegal funds, set up front corporations to cover their criminal operations, and to profitably bankrupt companies when they no longer have any use for them.

In most instances, organized crime's movement into business is done quietly. Seldom do mobsters' names appear on corporate records, and fear of reprisal makes complaining victims scarce. Such conditions require current and accurate intelligence data, which can only be obtained through a network of well-placed informants. The FBI has a program for developing informants, and their information has allowed agents to remain cognizant of organized criminal activity in the business community and thus take appropriate action.

Investigative techniques

The FBI is refining and intensifying its use of a number of highly sophisticated and innovative investigative techniques in the fight against organized crime. Included among these are:

1. Undercover agents and storefront operations designed to ferret out large-scale pornographic operations, narcotics trafficking, infiltration of legitimate business, and extensive labor-racketeering activities.

2. Judicially approved electronic surveillance installations and consensual recording devices (both of which are most effective against loansharking and corruption).

3. The assignment of experienced Special Agent Accountants to the review and analysis of labor union records, records of financial institutions, and records of businesses in which there is probable cause to believe a crime has been committed. (This also embraces expanded use of computers to assist in the correlation and review of document examinations of a voluminous nature).

4. Informants specifically selected and targeted to penetrate the upper echelons of the organized underworld.

5. Miscellaneous techniques, such as aerial surveillance and hypnotism of willing witnesses (particularly helpful in gangland murder cases).

The results

Since the enactment of the first three major organized crime statutes in 1961, numerous organized crime members and associates have been convicted in FBI cases. Included among these individuals were top-ranking traditional organized crime functionaries in New York City and Buffalo, New York; Philadelphia and Pittston, Pennsylvania; Detroit; Chicago; St. Louis; Kansas City; Denver; Los Angeles, and New Orleans. During fiscal year 1981, 515 individuals were convicted as a result of investigative activity targeted against the organized criminal element by the FBI. In addition, $33,364,144 in fines, savings, and recoveries were attributed to this priority program area. Further, $576,655,256 in Potential Economic Loss Prevented (PELP) was realized.

EXHIBIT No. 13

AGENT TIME SPENT BY MAJOR CATEGORY OF ORGANIZED CRIME INVESTIGATIONS: FY 1981

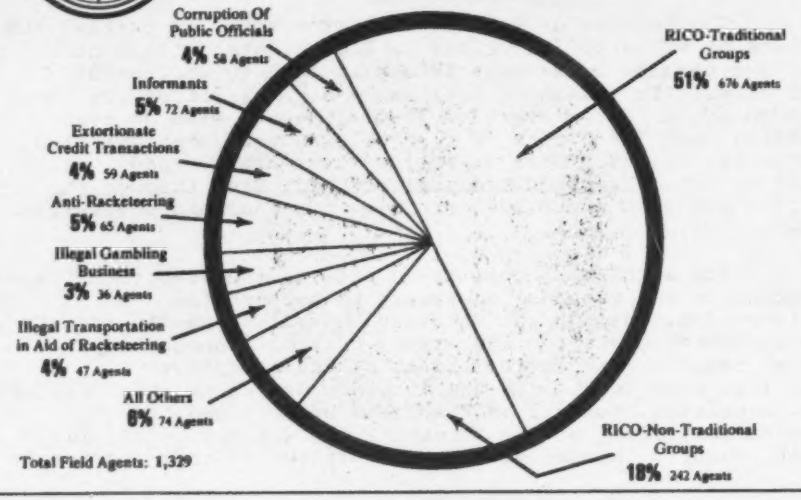
Major Category	Agent Work-years (Includes Field Supervisors)	Percent (%) of Program	Percent (%) of Total Field Agent Time
Anti-Racketeering	65	4.9%	.9%
Extortionate Credit Transactions	59	4.4%	.9%
RICO - Traditional Groups	676	50.9%	9.7%
RICO - Non-Traditional Groups	242	18.2%	3.1%
Hobbs Act-Corruption of Public Officials	58	4.4%	.8%
Informants	72	5.4%	1.0%
Illegal Gambling Business	36	2.7%	.5%
Illegal Transportation in Aid of Racketerring	47	3.5%	.7%
All others	74	5.6%	1.1%
Total Organized Crime Program	1,329	100.0%	19.1%

EXHIBIT No. 14

U. S. Department of Justice
Federal Bureau of Investigation

Agent Time Spent By Major Category Of Organized Crime Investigations Fiscal Year 1981

(Includes Field Supervisors)



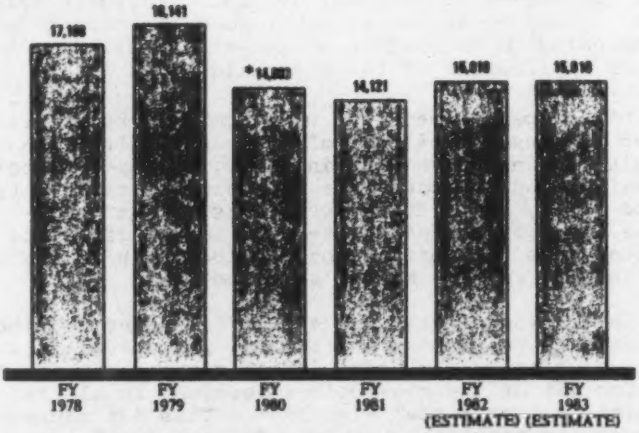
Total Field Agents: 1,329

EXHIBIT No. 15

U. S. Department of Justice
Federal Bureau of Investigation

Organized Crime Investigative Matters Received

Fiscal Years 1978 - 1983



* FOR FY 1980 AND SUBSEQUENT YEARS CERTAIN RICO CLASSIFICATIONS, PREVIOUSLY REPRESENTING OVER 18% OF THE ORGANIZED CRIME PROGRAM, WERE TRANSFERRED, PRIMARILY TO THE WHITE-COLLAR CRIME PROGRAM.

EXHIBIT No. 16

THE WHITE-COLLAR CRIME PROGRAM

Introduction:

The Federal Bureau of Investigation utilizes a working definition of white-collar crime as "...those illegal acts that use deceit and concealment rather than the application or threat of physical force or violence to obtain money, property or services; to avoid the payment or loss of money; or to secure business or personal advantages."

The long-range goal of this program is to curtail the incidence of white-collar crimes by investigating those high impact and complex cases most likely to lead to successful prosecutions. This goal is attainable as a result of vigilance displayed by our large cadre of Special Agents with an ever increasing level of expertise in resolving very sophisticated white-collar crimes. This expertise is maintained and increased, not only through experience, but also through fortification with structured training programs and specialized seminars.

The short-term goal is to provide the investigative concentration and response necessary to support the Administration, through the Attorney General, in achieving its law enforcement goals for addressing criminal conduct on a national basis. The establishment of investigative priorities, consistent with the Attorney General's white-collar crime priorities, for all 59 FBI field offices and the continued monitoring of the investigative actions by all field offices, insures the satisfactory completion of this short-term goal.

It is one of the FBI's principal objectives to detect, investigate and provide prosecutive support in resolving the white-collar criminal activities within its investigative jurisdiction. The primary investigative jurisdictional areas of the white-collar crime program are: governmental fraud, public corruption, labor matters, financial crimes and energy fraud.

White-collar crime investigations involve the use of all the traditional law enforcement techniques, such as: interviews, observation, audit, consensual monitoring, both audio and visual, court authorized monitoring, undercover operations, gathering of physical evidence, forensic science and others. Inasmuch as the criminal conduct encountered differs depending on the nature of the crimes alleged, the frequency of application of these techniques varies.

Often, perpetrators of white-collar crimes are regarded as responsible pillars of their communities who occupy positions in government, industry, the professions and civic organizations. Through use of their position of trust, cunning and guile, white-collar criminals undermine professional and governmental integrity to the dismay of all, and ultimately are responsible for the loss of billions of dollars annually from the Nation's economy.

During the fiscal year ending September 30, 1981, 22% of the investigative manpower of the FBI was utilized in the conducting of white-collar crime investigations. This effort accounted for 43% of the convictions obtained in all FBI investigations during fiscal year 1981. This 43% represents 3,590 individuals convicted with an additional 490 individuals placed in pretrial diversion programs. Also, more than 29 million dollars were levied, and potential economic losses of 1.5 billion dollars were prevented.

Governmental Fraud:

Addressing criminal allegations of fraud and bribery within the programs and functions of the Federal Government is the nature of governmental fraud cases. The majority of these investigations involve 13 Departments and 57 Agencies of the Executive Branch which disburse billions of dollars annually. These funds are intended to attain national goals and/or eliminate specific problems attacking the quality of American life.

Often, the diversion of these funds is the target of unscrupulous individuals from within as well as from outside the government. Two groups can be readily identified committing these crimes, 1) those individuals or entities responsible for operating the program or function and 2) those individuals and entities who either receive funds when not qualified to do so or misuse the funds received.

The very highest priority of all white-collar crime investigations conducted by the FBI is now afforded to governmental fraud cases. Public interest in revelations by the media of instances of fraud, waste and abuse within the Federal Government must be met by an immediate and effective law enforcement response to insure that the public confidence in government and its institutions is not undermined.

Since these governmental fraud matters involve the programs and functions of other governmental entities, a continuing liaison program is required with the Inspectors General or their equivalent, administering the abused program or function. Also, when our investigations highlight deficiencies within a program or function of another agency this information is made known with the expectation that appropriate preventive measures will be instituted; such as personnel action, program changes and/or debarment proceedings, to insure that similar abuses do not occur in the future. Dissemination of investigative results is also made to the Civil Division of the Department of Justice for the imposition of civil sanctions.

The FBI is attempting to enter into Memoranda of Understanding with each Inspector General in order to delineate areas of responsibility which will insure no duplications of effort occur. The memoranda will provide an equitable distribution of investigative responsibilities to efficiently utilize the limited resources which are available. The efforts of the FBI will be directed toward the investigation of criminal activity which involve government programs. The efforts of the Inspector General will be directed at the detection of fraud, waste and inefficiency and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of the respective Federal agencies.

The following examples are provided to illustrate the variety and magnitude of the investigations in the governmental fraud area:

"Applecore", a joint FBI-Inspector General, U. S. Department of Agriculture (USDA) undercover investigation into the Federally funded Summer Feeding Program for disadvantaged children in the state of New York, was surfaced on February 18, 1981. Twenty convictions were obtained on charges of submitting false statements and conspiracy to defraud the Federal Government. This investigation revealed widespread bid-rigging, kickbacks and fraud within the USDA Summer Feeding Program. Investigative results are presently being used by USDA to make dramatic changes in this and related programs.

"Medfraud", a Los Angeles FBI undercover investigation, resulted in 42 convictions including doctors and laboratory owners and revealed widespread kickbacks and over-billings in the Medicare and Medicaid programs of California. Our undercover Agents have provided testimony before a Congressional Committee seeking ways to legislate safeguards into the various Federally funded health care programs.

Public Corruption:

Abuse of office by elected and/or appointed public officials in violation of Federal criminal statutes and attempts by individuals to cause public officials to abuse their offices in violation of Federal criminal statutes, is the basis of the initiation of public corruption investigations by the FBI.

While FBI investigations involve officials at all levels of government, investigative priority and emphasis is provided to those matters involving Federal officials. Due to sheer numbers of local office holders, the volume of matters under investigation has traditionally involved more local and county governments. Public corruption investigations are, for the most part, not undertaken by state and local authorities for a large number of reasons and have become a major component of the FBI's white-collar crime program.

The FBI's investigative response to public corruption allegations continues to be immediate, agressive and thorough. Due regard is given to the integrity and reputation of the individual alleged to have engaged in criminal conduct.

Public corruption investigations utilize all of the traditional investigative techniques, but focus initially upon gathering evidence that will corroborate or refute challenges to the credibility of the individual transmitting the allegations. As the investigation continues, the substance of the allegation is then addressed.

Extensive media attention to public corruption investigations on both the regional and national level illustrate and chronicle FBI successes in ferreting out those responsible for damaging the institutions that comprise our American democracy.

Insidious corruption penetrating and inflicting its financial toll upon the citizens of the State of Oklahoma has been found to exist in almost all of the state's 77 counties during the conduct of the investigation entitled Corcom. More than 300 individuals, primarily present and former county commissioners with the balance being vendors doing business with them, are expected to be indicted. In excess of 150 persons have thusfar entered into agreements to plead guilty to charges growing from this investigation. Similar practices have been detected in other states and are under investigation by ten FBI field offices.

Labor Matters:

The protection of the rights of union members in addition to unlawful conduct of both union officials and employers constitutes the basis of FBI "Labor Related" investigations.

Criminal statutes in the investigative jurisdiction of the FBI cover a full range of illegal activity that can, and on occasion does occur involving either or both labor and management. Labor violence is the basis of much investigative activity, but frequently does not result in Federal prosecution

due to the fact that the violence is often an outgrowth of legitimate attempts by unions to organize a particular employing unit.

Accusations of the solicitation of a kickback by a union official are reported more often than are accusations of the offering of a bribe by an employer to a union official, however, both are violations actively investigated by the FBI.

The allegation of the misappropriations of union member's pension funds is investigated with a resultant higher number of convictions than in some of the other labor related investigations.

In recognition of the serious nature of allegations of labor related crime and the impact of the involvement of the FBI in the underlying union/management activity from which the alleged criminal conduct has grown, definite investigative jurisdiction is established before initiation of investigations. In light of differing interpretations by courts in various Federal judicial districts the likelihood of prosecutive consideration is also a prerequisite established before initiation of investigation. Both these needs are satisfied by Special Agents assigned to investigate labor related matters securing counsel from approporiate U. S. Attorneys at various stages, and on a continuing basis.

Financial Crimes:

White-collar crimes generally categorized as financial crimes are "those schemes to cheat, defraud, steal, embezzle, abstract, purloin or misapply money, funds securities or credits of an individuals and/or institution by manipulating events, documents or large sums of cash through misrepresentation, falsification and deceit." Although variations are endless, the most common names applied to these crimes are: embezzlements, bankruptcies and check kites.

The fact that information about financial crimes does not come to the attention of the FBI for some time after the crime has occurred, the reluctance of witnesses to become involved, the voluminous records and the mobility of perpetrators, all contribute to the degree of complexity and time consumption in these investigations. Nevertheless, it is only the most complex and significant in terms of impact upon criminal conduct that are pursued by the FBI. Local authorities are asked, whenever possible, to handle cases that would not tax their resources.

An increase in the use of consensual monitoring with cooperative witnesses and undercover operations to augment the use of the interviewing techniques and financial audits has had a positive effect on the conservation of resources.

Among the more noteworthy of the investigations resulting in convictions during fiscal year 1981, were two cases involving banking institutions. In one case, a Houston, Texas banker was convicted of embezzling 14 million dollars while in another case a boxing promoter and others conspired to defraud a Los Angles, California bank of 21.3 million dollars.

Energy Fraud:

The FBI has endeavored to monitor the volume of white-collar criminal activity that can be construed to be "Energy Related." Through close cooperation with the Departments of Interior and Energy, and, to the extent allowable by law, the Internal Revenue Service, the volume of

energy related criminal activity reported has been less than anticipated.

The most serious of the detected energy related crimes have been those purported to have taken place on the Wind River Indian Reservation in the State of Wyoming. There, it has been alleged that the awarding of oil leases, and the removal of oil from authorized wells have both been the basis for crime. In the awarding of oil leases, bribes and kickbacks have been uncovered in a joint investigation with the Interior Inspector General and the FBI resulting in the conviction of six individuals including a government employee. Investigation of oil thefts from Wind River lands without full payment under terms of leases to the Federal Government and Indian tribes continues.

Working with the staff of the Energy Inspector General, FBI Agents have pursued allegations of improper certification of the age of crude oil thereby affecting its sale price. Investigations have established the existence of a large number of middlemen through which old oil has been sold during which the price of the oil has been inflated and documents filed altering the actual dates of production. A total of 14 individuals have been convicted and recoveries made in excess of 40 million dollars, however, honest mistakes and misinterpretation of regulations, characterized as complicated, have been found to have existed in the majority of the cases investigated.

Coal investment frauds wherein unsuspecting investors have been duped to invest large sums of money in questionable coal exploration companies, have been the focus of joint Internal Revenue Service/FBI investigative activity. In many of these schemes, the perpetrators of this fraud advised investors they could gain a tax advantage by virtue of a tax loophole which in reality does not exist.

EXHIBIT No. 17

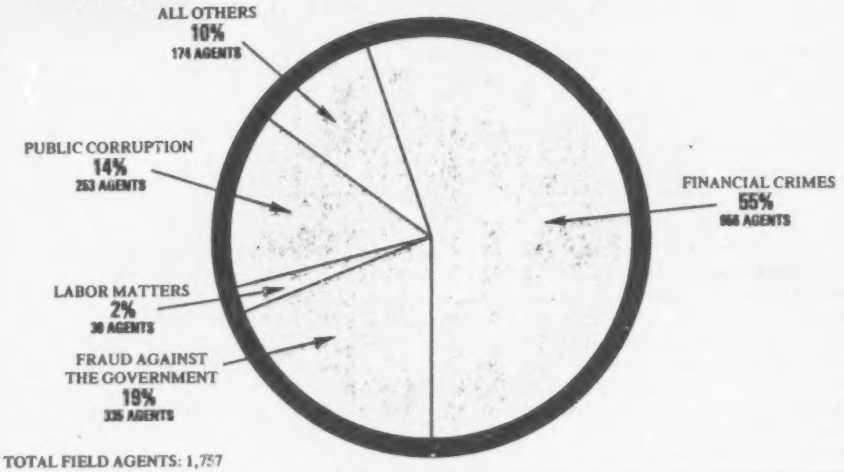
AGENT TIME SPENT BY MAJOR CATEGORY OF WHITE-COLLAR CRIME INVESTIGATIONS: FY 1981

Major Category	Agent Work-years (Includes Field Supervisors)	Percent (%) of Program	Percent (%) of Total Field Agent Time
Fraud Against the Government	335	19.1%	4.8%
Labor Matters	39	2.2%	.6%
Public Corruption	253	14.4%	3.6%
Financial Crimes	956	54.5%	13.7%
All others	174	9.9%	2.5%
Total	1,757	100.0%	25.2%

EXHIBIT No. 18

U. S. Department of Justice
Federal Bureau of Investigation

Agent Time Spent By Major Category Of White-Collar Crime Investigations Fiscal Year 1981
(Includes Field Supervisors)

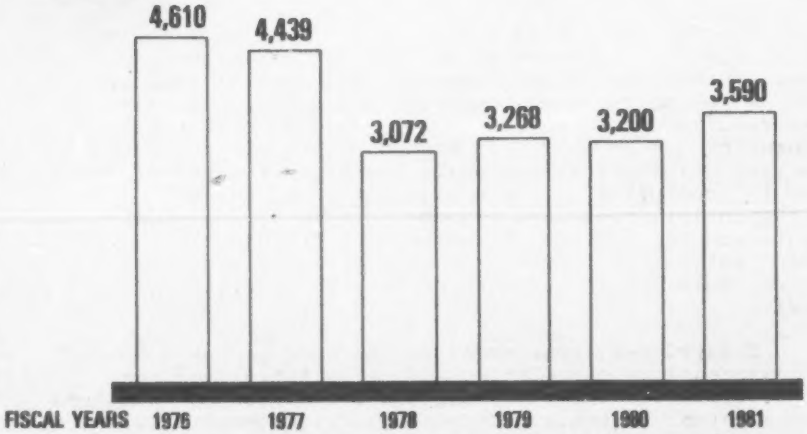


TOTAL FIELD AGENTS: 1,757

EXHIBIT No. 19

U. S. Department of Justice
Federal Bureau of Investigation

White-Collar Crime
Convictions



FOREIGN COUNTERINTELLIGENCE

ALONG WITH ORGANIZED AND WHITE-COLLAR CRIME INVESTIGATIONS, FOREIGN COUNTERINTELLIGENCE REMAINS A MAJOR PRIORITY OF THE FBI. THE BUREAU WILL CONTINUE ITS EFFORTS TO DETECT, PENETRATE, AND EXPOSE HOSTILE INTELLIGENCE OPERATIONS OF FOREIGN COUNTRIES WITHIN THE UNITED STATES. FURTHER INFORMATION RELATIVE TO THE COUNTERINTELLIGENCE RESPONSIBILITIES OF THE FBI IS CONTAINED IN THE FOLLOWING EXHIBITS:

Exhibit No. 20

FOREIGN COUNTERINTELLIGENCE PROGRAM

The FBI is charged with the responsibility of Foreign Counterintelligence (FCI) investigations and foreign terrorist investigations within the United States. This FCI function is derived from various criminal statutes, such as the Espionage Statutes and Registration Acts. In addition, FCI investigations are conducted in accordance with Presidential Directives issued pursuant to the inherent power of the President to protect and defend the Constitution of the United States. Executive Order 12036, issued January 26, 1978, is the current Presidential authority for the FBI's FCI investigations. In compliance with existing Executive Orders, the Attorney General has established guidelines for the conduct of FCI activities in the United States. The first such guidelines became effective May 28, 1976. Within the parameters of these guidelines and statutes, the FBI is given discretion to develop and implement FCI programs.

The FCI mission is counterintelligence activity undertaken to protect the security of the United States by countering the hostile activities of foreign intelligence services and foreign-directed terrorists. It includes the development and dissemination of information concerning foreign intelligence or terrorist activity, as well as the penetration and neutralization of groups and individuals engaged in such activity.

The FCI Program of the FBI serves national policy makers by providing an overview of foreign intelligence activities within the United States. As a result, they are assisted in making informed decisions concerning national security requirements. The FBI also furnishes analyses to other agencies of the Executive Branch with specific intelligence responsibilities, enhancing the effectiveness of these agencies in accomplishing their missions. FBI investigative responsibilities have expanded due to a much wider geographic access, increase in numbers of individuals requiring investigation, and the use of sophisticated technical collection equipment on the part of foreign intelligence personnel.

The FBI has experienced an increase in the number of Soviet immigrants; a large influx of repatriated American citizens, former political prisoners and their dependents from Cuba; substantial increase of investigative responsibilities as a result of the recent diplomatic recognition of the People's Republic of China (PRC); and an augmented effort to monitor and/

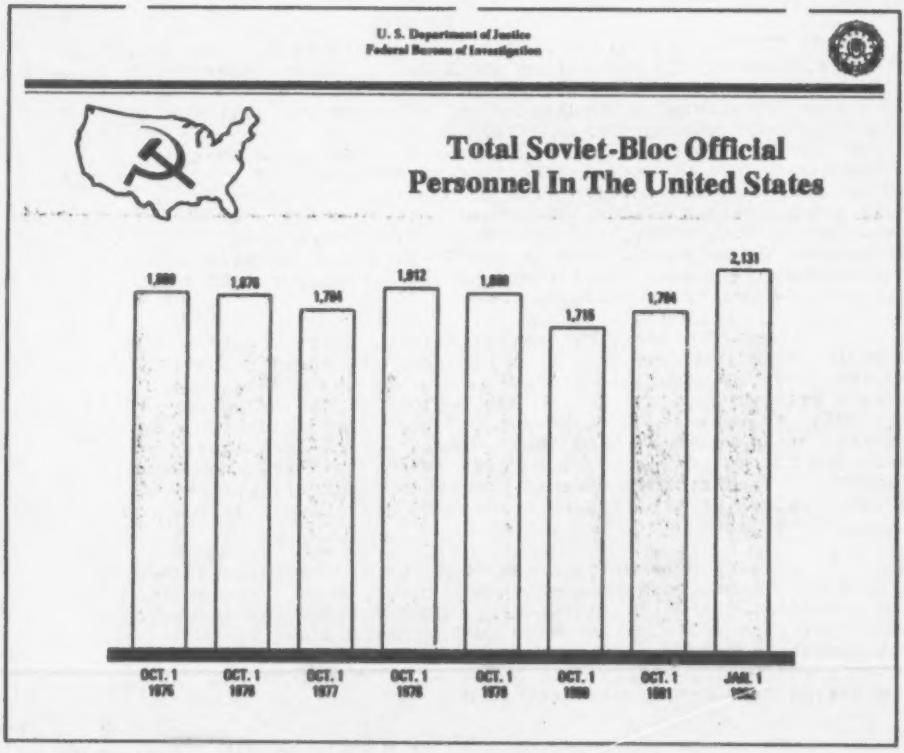
or thwart the scientific and technological drain to foreign intelligence services.

The PRC presence has grown significantly within the last 2 years. There are now four PRC diplomatic establishments in the U.S. and 5,000 students. The PRC student population is expected to increase to 12,000 by 1984. It is the FBI's responsibility to detect intelligence officers implanted among these persons.

An area of increasing concern and responsibility of the FBI's FCI program is international terrorism. The number of foreign terrorist investigations has also increased over the last year. The FBI is charged with primary jurisdiction and overall responsibility for direction of investigations with regard to international terrorist incidents.

The FBI has a defined role within the Intelligence Community. Inasmuch as foreign-directed intelligence activities and terrorism are transnational in nature, the FBI must coordinate investigative operations with other United States agencies and cooperating foreign police and security services in order to insure the accomplishment of established FCI objectives. This liasion is a most integral component in the FBI's FCI program.

Exhibit No. 21



TERRORISM

APPROXIMATELY 99 PERCENT OF ALL TERRORIST ACTIVITY IN THE UNITED STATES FALLS WITHIN THE JURISDICTION OF THE FBI. THUS,

IT IS THE FBI'S RESPONSIBILITY TO INSURE THAT THE PREVENTIVE (INTELLIGENCE-GATHERING) AND REACTIVE (CRIMINAL INVESTIGATIVE) CAPABILITIES OF THE FBI ARE SUFFICIENT TO MEET THE THREAT OF TERRORISM IN THIS COUNTRY. SEVERAL EXHIBITS DESCRIBING THIS PROGRAM FOLLOW:

EXHIBIT No. 22

TERRORISM INVESTIGATIONS

Terrorism investigations are undertaken in order to detect, prevent, and/or react to unlawful, violent activities of individuals or groups whose intent is to either overthrow the Government, interfere with the activities of a foreign government in the United States; substantially impair the functioning of the Federal Government, a state government, or interstate commerce, or deprive Americans of their civil rights as guaranteed by the Constitution, laws, and treaties of the United States. The authority for these investigations is derived from Federal statutes and Executive Orders from the President and the Attorney General. In addition, violations of certain Federal statutes, which would logically relate to terrorism--such as bombing matters, nuclear extortion, sabotage, and the protection of foreign officials--are handled within the Terrorism Program.

Terrorist activity, which is defined as violent acts or acts dangerous to human life which are criminal under the laws of the United States and which are intended to intimidate or coerce the civilian population or influence the policy of the Government through intimidation or coercion, is investigated as part of this program. In order to combat terrorism, quality intelligence must be gathered and acted upon to prevent planned violence from occurring. Intelligence in this regard refers to FBI investigations, together with their resultant product, which ascertain information on the activities of individuals or groups involved in violence and violations of Federal law for the purposes enumerated in the Attorney General's Guidelines.

Domestic security investigations, which comprise only a small segment of the Terrorism Program, are based primarily on the Attorney General's Domestic Security Guidelines, which became effective in the FBI on April 6, 1976. As of December 29, 1981, there were 10 organizations and 16 individuals under investigation based on these Guidelines. If an individual or group is foreign-directed or foreign-based, investigation must conform to the Attorney General's Foreign Counterintelligence Guidelines, which were issued on June 1, 1973, and last revised in April of 1980.

Domestic security investigations in the FBI underwent a radical change, both in number and in scope, as a result of the adoption of the Attorney General's Guidelines for Domestic Security. The FBI's policies of quality over quantity management and restricting investigation of individuals to leaders and policy makers also had a major impact on the limitation of domestic security cases.

While the terrorism program as a whole is not listed as a top priority program of the FBI, when an act of terrorism occurs which requires an immediate reaction, the Bureau's response becomes a top priority. Terrorist acts continue to be performed as evidenced by the murders of former Iranian Press Attache Ali Tabatabai and Cuban U.N. Attache Felix Garcia in 1980, and the continued bombing attacks by the Cuban terrorist group Omega Seven, The Armenian terrorist groups, the Puerto Rico pro-independence terrorist groups, and the Jewish Defence League in 1981. These actions by terrorists are violent criminal acts deliberately calculated to create maximum physical and emotional disruption. Incidents such as these mirror the mobility and complexity

of modern society, and demonstrate that terrorist activity transcends both national and international borders.

Since approximately 99% of all domestic security activities fall within the investigative responsibilities of the FBI, it is necessary for the Terrorism Program to be characterized by determination and innovation. In an attempt to increase the intensity and variety of its response, the Terrorism Program has begun employing several new resources. The application of the Racketeer Influenced and Corrupt Organization (RICO) Statutes to terrorist activity has provided further thrust to the investigation of terrorist groups who are involved in murder, extortion, bombing or arson activity. In the recent past, the RICO Statutes were successfully used against Croatian terrorists to prevent a bombing and assassination plot from taking place and to effect the arrest and conviction of several key members of this group. New legislative areas are being researched for improvement of laws. Computerization of major case information has begun to assist in the analysis and retrieval of vital information. Special investigative techniques such as aircraft and technical surveillance have provided timely and valuable information on the activities of terrorists. The ominous nature of terrorist acts does not allow for complacency in planning for a response to these incidents or in obtaining advanced information of planned violent activity. Therefore, the future strategy of the Terrorism Program is as dynamic as the course of terrorist activity.

EXHIBIT No. 23

AGENT TIME SPENT BY MAJOR CATEGORY OF TERRORISM INVESTIGATIONS: FY 1981

Major Category	Agent Work-years (Includes Field Supervisors)	Percent (%) of Program	Percent (%) of Total Field Agent Time
Neutrality Matters	5	4.0%	.1%
RICO - Terrorism	23	18.2%	.3%
Passport and Visa Matters	5	4.2%	.1%
Domestic Security	9	7.4%	.1%
Atomic Energy Act	2	1.9%	---
Protection of Foreign Officials	12	9.6%	.2%
Domestic and Foreign-Based Bombing Matters	50	39.4%	.7%
Bombing Matters - Other attempts and actuals	3	2.3%	---
Espionage - X	4	3.3%	.1%
Bomb Threats	4	2.7%	.1%
Informants	7	5.5%	.1%
All others	2	1.5%	---
Total Terrorism Program	126	100.0%	1.8%

OTHER INVESTIGATIVE RESPONSIBILITIES

ALTHOUGH THE QUALITY CASE CONCEPT DICTATES THAT THE FBI WILL REFER LOWER FEDERAL PRIORITY INVESTIGATIONS TO LOCAL AUTHORITIES WHEN FEASIBLE AND WHERE DUAL JURISDICTION EXISTS, THE FBI STILL HAS A PROMINENT ROLE IN MANY REACTIVE-TYPE INVESTIGATIONS. THESE INVESTIGATIONS ARE MOSTLY IN THE PROPERTY AND PERSONAL CRIMES PROGRAMS. THE FBI'S POLICY WITH RESPECT TO BANK ROBBERY INVESTIGATIONS IN THE PERSONAL CRIMES PROGRAM WILL BE

TO CONTINUE TO RESPOND TO EACH VIOLATION AS IT OCCURS AFTER WHICH A DETERMINATION CAN BE MADE AS TO WHETHER FEDERAL OR LOCAL AUTHORITIES WILL BE RESPONSIBLE FOR THE CASE. THE FBI WILL ASSUME RESPONSIBILITY FOR INVESTIGATING THOSE CASES WHERE THERE IS VIOLENCE, INJURY, DEATH, HOSTAGES, OR INDICATIONS OF ORGANIZED CRIME OR INTERSTATE ACTIVITY.

SOME OTHER INVESTIGATIVE RESPONSIBILITIES OF THE FBI INCLUDE PERSONAL CRIMES, FUGITIVES, CIVIL RIGHTS, GENERAL GOVERNMENT CRIMES, AND GENERAL PROPERTY CRIMES. THE FOLLOWING EXHIBITS RELATE TO THESE TYPES OF MATTERS AS WELL AS TO INFORMANTS:

EXHIBIT No. 24

PERSONAL CRIMES PROGRAM

The Personal Crimes Program of the FBI addresses a group of reactive criminal investigative matters which involve the common characteristics of threatened or actual personal injury or loss of life. These crimes, which include bank robberies, extortions, kidnapings, aircraft hijackings, assaults against the President of the United States and other elected and appointed officials, among others, often have considerable impact on the communities and individuals involved due to their potential for violence, the high public profile of their victims, and their potential for substantial monetary losses. Through its investigations of these offenses, the FBI seeks to reduce the impact of personal crime victimization by providing an investigative response to reported violations; identifying, collecting, and preserving evidence to direct and support investigative efforts; conducting logical investigation to identify, locate, and apprehend criminals responsible for personal crimes; and providing prosecutive support to United States Attorneys' Offices, and, when requested, local prosecutive officials. The "street-crime" nature of many Personal Crimes Program offenses directly involves the FBI in an effort to stem the growing incidence of violent crime experienced by communities across the Nation.

Investigative accomplishments attributable to the Personal Crimes Program contributed substantially to the overall performance and success of the FBI during Fiscal Year 1981. During this period, 1,284 arrests were made, 1,469 complaints were filed, 2,126 true bills of indictment were returned, and 2,038 convictions were obtained. Ninety-six percent of the convictions were for felony offenses and 91 percent of the individuals convicted were sentenced to a period of incarceration.

For Fiscal Year 1983, a total of 1,060 workyears are being requested for the Personal Crimes Program, including 683 Agent workyears and 378 support workyears.

Forcible crimes against financial institutions--bank robberies, bank burglaries, bank larcenies, and extortionate demands against banking institutions--constitute the primary investigative area of the Personal Crimes Program. During Fiscal Year 1981, Federal Bank Robbery Statute violations reached a

record high of 7,642, a five percent increase over Fiscal Year 1980 and the fifth consecutive year violations have surpassed the previous years' total. Losses attributable to these 7,642 crimes totaled $60,639,836. Firearms were used in 51 percent of the 6,883 bank robbery offenses. As of the close of Fiscal Year 1981, solutions were recorded in 3,870 of the 7,642 violations. Approximately 44 percent of the perpetrators identified in these solved cases were found to be users of narcotics. FBI investigation, either alone or in concert with state and local law enforcement contributed to 69 percent of the solved Fiscal Year 1981 cases. Federal convictions for Bank Robbery Statute violations increased 14 percent during Fiscal Year 1981, totaling 1,715. Investigative efforts in this program area also yielded 1,020 arrests, 1,220 complaints, and 1,831 true bills of indictment. A major ongoing investigation in this area is the October, 1981, armed robbery of a Brinks armored truck, in which one guard was killed, and the subsequent shooting deaths of two Nyack, New York, policemen by members of the former Weather Underground Organization. Hobbs Act offenses directed against financial institutions totaled 228 during Fiscal Year 1981. Losses in these extortion/kidnap style offenses amounted to $652,502. Resources requested for the Personal Crimes Program for Fiscal Year 1983 include a planned allocation of 693 workyears (448 Agent and 245 support) for investigations of forcible crimes against financial institutions.

Major investigative efforts are also continuing in several other areas of the Personal Crimes Program. Prosecution is pending in Atlanta, Georgia, of an individual indicted by the state in connection with the murders of two adults who were among 29 children and young adults disappearing over an approximate two-year period in the Atlanta area. This individual was arrested by local authorities based upon information developed by the FBI and Atlanta Police Department during their investigation of these crimes. A year-long investigation of an attempted extortion of a Nevada casino was brought to a successful conclusion with the arrest of six individuals in Calfornia by FBI Agents. This case received nation-wide notoriety after the perpetrators placed an improvised explosive device in the casino's executive offices. After payoff attempts failed, an attempt to neutralize the bomb triggered its detonation and resulted in extensive property damage. Trial preparation is also underway in connection with the March, 1981, assassination attempt against President Ronald Reagan. In this incident, a lone gunman fired six shots at the President, who was entering his limousine outside a Washington, D.C., hotel. Wounded were the President, Presidential Press Secretary James Brady, a U. S. Secret Service Agent and an officer of the Metropolitan Police Department, Washington, D.C. Investigation is also continuing into the May, 1979, assassination of U. S. District Court Judge John H. Wood in San Antonio, Texas.

EXHIBIT No. 25

AGENT TIME SPENT BY MAJOR CATEGORY OF PERSONAL CRIMES INVESTIGATIONS: FY 1981

Major Category	Agent Work-years (Includes Field Supervisors)	Percent (%) of Program	Percent (%) of Total Field Agent Time
Kidnaping	82	11.1%	1.2%
Extortion	52	7.1%	.7%
Assaulting or Killing a Federal Officer	57	7.8%	.8%
Forcible Crimes Against Financial Institutions	455	62.0%	6.5%
Hobbs Act - Commercial Institutions	45	6.1%	.7%
Crime Aboard an Aircraft	15	2.1%	.2%
Assaulting the President	15	2.0%	.2%
All others	13	1.8%	.2%
Total	734	100.0%	10.5%

EXHIBIT No. 26

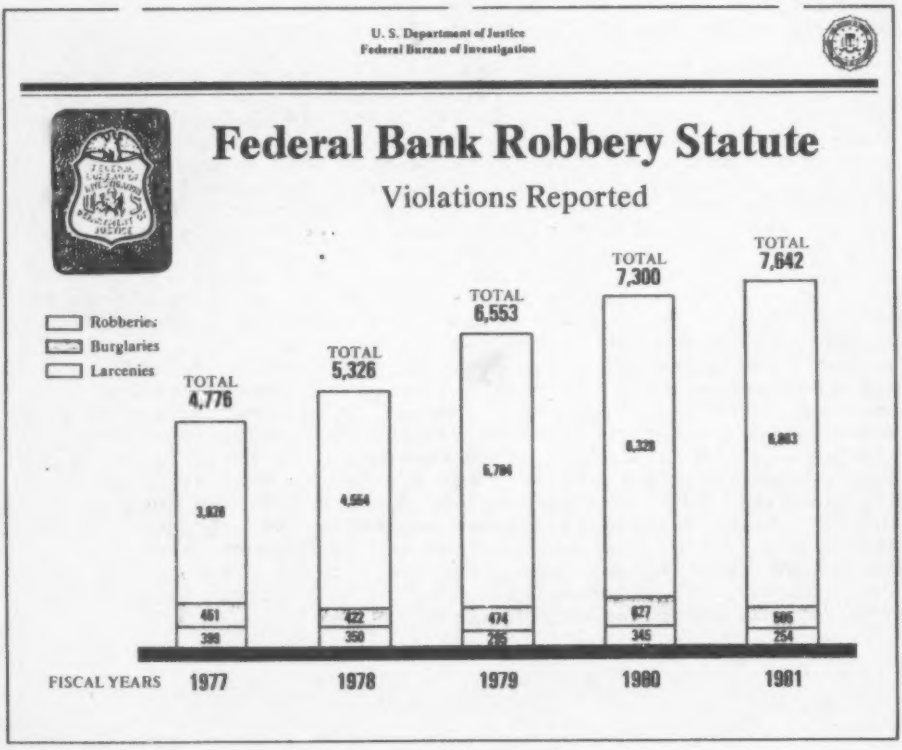


EXHIBIT No. 27

FUGITIVE INVESTIGATIONS

In Fiscal Year 1981, a total of 6,286 fugitives wanted by the FBI were successfully taken into custody. This total includes 4,997 "arrests" and 1,289 "locates". Of those taken into custody, 1,198 were being sought at the request of state, local and other Federal agencies, including the Department of Defense, for violations of the Unlawful Flight Statute, escaped Federal prisoners, bond default and military

deserters. Included in this number were 1,085 fugitives being sought on behalf of the local and state law enforcement community under provisions of the Unlawful Flight Statute. The remaining 5,088 fugitives arrested or located during fiscal year 1981 had been charged with substantive Federal violations within the FBI's investigative judrisdiction.

The FBI and Drug Enforcement Administration (DEA) are perfecting various avenues of cooperation to attack major drug offenders and traffickers. It has been determined that the FBI can be of immediate and signficant assistance to DEA by assuming a portion of DEA's fugitive workload. During September and October, 1981, DEA referred 312 fugitive cases to the FBI for investigation. The subjects of these cases are Class I and Class II violators for whom Federal warrants are outstanding. These cases are now under investigation by FBI Agents in various parts of the country.

The Department of Justice referred 132 Selective Service Act cases to the FBI for investigation shortly before the end of the fiscal year. The subjects of these cases are individuals who are suspected of willfully failing to register. Each case is coordinated closely with the appropriate U.S. Attorney's office in an effort to secure the subject's compliance with the Act before prosecution is undertaken. Although the subjects of these cases are not fugitives at present, enforcement of the statute is administered within the fugitive program.

The FBI's responsibilities for seeking individuals wanted for substantive violations within its jurisdiction, and those wanted by the local and state law enforcement community who have fled across state lines to avoid apprehension or confinement, remain unchanged.

EXHIBIT No. 28

AGENT TIME SPENT BY MAJOR CATEGORY OF FUGITIVE INVESTIGATION - FY 1981

Major Category	Agent Work-years (Includes Field Supervisors)	Percent (%) of Program	Percent (%) of Total Field Agent Time
Bond Default and Desertion	---	0.2%	---
Escaped Federal Prisoner	3	1.4%	.1%
Selective Service Act	---	0.2%	---
Unlawful Flight to Avoid Prosecution - Subject wanted for violent crime	170	78.2%	2.4%
Unlawful Flight to Avoid Prosecution - Subject wanted for property crime or narcotics	20	9.0%	.3%
Unlawful Flight to Avoid Prosecution - All others	24	11.0%	.3%
Total	217	100.0%	3.1%

EXHIBIT No. 29

CIVIL RIGHTS INVESTIGATIONS

The Civil Rights Program of the FBI investigates matters that involve the actual or attempted abridgement of rights provided to citizens and inhabitants of the United States under the constitution and laws of the country. The primary objective of this program is to enhance and protect those rights through expeditious investigation of matters within FBI jurisdiction. Both civil and criminal matters are

investigated in close coordination with the Civil Rights Division of the United States Department of Justice.

The FBI investigated 10,084 civil rights cases in fiscal year 1980 and 9,150 cases in fiscal year 1981. It is estimated that between 9,000 and 10,000 civil rights cases will be investigated during the current fiscal year. Civil rights investigations, many of which are extensive, are conducted pursuant to policy established by the United States Department of Justice.

Resources will also be used in 1983 to provide specialized instructional programs to FBI Field Supervisors and Managers at the FBI Training Academy, Quantico, Virginia, to enhance managerial and investigative skills of Special Agents in civil rights investigations, including keeping abreast of the complex Civil Rights Statutes, in order to afford timely, accurate, and effective responses in civil rights matters.

Similar programs will be conducted for local and state law enforcement officers attending the FBI National Academy at Quantico, Virginia, to increase their knowledge concerning Constitutional rights and the special duties and obligations which the law imposes on them to uphold and protect such rights.

In fiscal years 1980 and 1981, twenty-four hours of instruction were provided to 48 FBI Supervisors at the FBI Academy to improve their managerial techniques in civil rights investigations. FBI Headquarters management personnel also provided 472 hours of instruction each year in civil rights matters to state and local police officers attending the FBI National Academy. It is estimated that similar amounts of time will be devoted to instruction in civil rights matters during the current fiscal year.

EXHIBIT No. 30

AGENT TIME SPENT BY MAJOR CATEGORY OF CIVIL RIGHTS INVESTIGATIONS: FY 1981

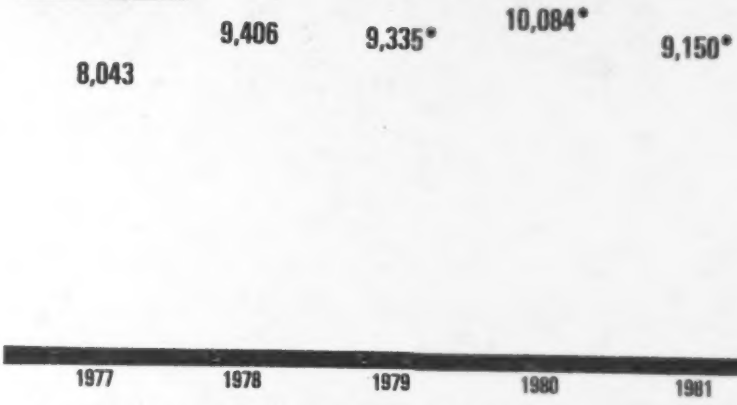
Major Category	Agent Work-years (Includes Field Supervisors)	Percent (%) of Program	Percent (%) of Total Field Agent Time
Civil Rights - Preliminary investigations involving violence	114	78.4%	1.6%
Civil Rights - All other preliminary investigations	7	4.5%	.1%
Civil Rights - Miscellaneous	12	8.0%	.2%
Civil Rights Act of 1964	3	2.1%	---
Discrimination in Housing	7	4.6%	.1%
All Others	3	2.4%	.1%
Total	146	100.0%	2.1%

EXHIBIT No. 31

U. S. Department of Justice
Federal Bureau of Investigation

Civil Rights Cases Received By The FBI

Fiscal Years (1977-1981)



* These figures include violations of both criminal & civil statutes

EXHIBIT No. 32

GENERAL GOVERNMENT CRIMES PROGRAM

The FBI investigates major violations involving criminals and criminal groups whose activities are directed against property owned by the United States Government and/or individuals who are located on property where the United States has investigative jurisdiction. These crimes involve theft of Government weapons or explosives, high-value property, and acts of violence, (i.e., homicides, assault, and robbery) occurring on Government reservations, in Indian Country, and in Federal penitentiaries. This includes approximately 430 major Department of Defense installations and 125 Indian reservations. During fiscal year 1981, 1,563 criminal informations and indictments were obtained, 1,052 persons were convicted, 611 were arrested and/or located, and recoveries amounting to $5,436,089 were accomplished under this program.

Crime on Government reservations frequently involves violence, such as a recent case where four members of a family were found shot to death in a remote canyon area of a western state. Local authorities were conducting the initial investigation until a survey of the crime scene determined that the four bodies were located on a military reservation. Subsequent investigation by the FBI resulted in the arrest and conviction of an eighteen year old male. A sixteen year old male, tried in court as an adult, was also convicted in this case. Both individuals are currently serving terms of life imprisonment for the murders of the family members.

The Nation's Indian reservations are extremely vulnerable to violent civil disturbances which can result in

widespread lootings, arson and crimes of violence. The FBI and the Departments of Justice and Interior have executed a Memorandum of Understanding which delineates the respective roles of Federal law enforcement agencies in future Indian reservation civil disturbances. This will achieve an improved reactive response in future civil disturbances, thus enabling law enforcement to lessen the magnitude of disruption in future occurrences.

EXHIBIT No. 33

GENERAL PROPERTY CRIMES PROGRAM

Property crime continues to account for 90 percent of all reported crime in the United States with an increase of 54 percent between the years 1971 and 1980. The FBI Property Crimes Program includes investigations of armed robbery and burglary of jewelry, precious metals, artworks, and other valuable property, and thefts of automobiles, trucks, aircraft, and heavy construction equipment. These crimes often include acts of violence in either the commission of the crime or the subsequent trafficking in stolen property. One indication of the magnitude of the property crimes problem and the cost to the American public is that during 1981, motor vehicle thefts reported to the National Crime Information Center ran in excess of 80,000 vehicles per month with a monthly loss value exceeding $310,000,000.

The objective of this program is the identification and solution of property crimes within the jurisdiction of the FBI, particularly those of a patterned, commercialized, or major nature; and arrest and prosecution of top thieves, fences, and organized crime activity continues to be essential due to the mobility of both property and individuals across state boundaries which presents jurisdictional, investigative, and prosecutive problems which may be impossible for local authorities to overcome.

In addition to the traditional investigative approach, the use of the undercover technique has proven to be extremely effective in combating property crime. By utilizing Special Agents posing as thieves and fences, numerous theft rings have been penetrated and direct evidence obtained which has resulted in successful prosecutions of those directly involved in criminal activity as well as high level individuals who have heretofore sufficiently isolated themselves from prosecution. These operations have frequently established a direct connection between property crimes and organized crime and have developed substantial information regarding the flow of narcotics and the corruption of public officials.

Property crime undercover operations have successfully penetrated organized crime related automobile theft and "chop shop" operations in New York and Chicago, and have identified individuals, including Mexican officials, responsible for the theft and export of vehicles and heavy equipment to Mexico and South America. Operations in Cleveland, Las Vegas, and Washington, D.C., have resulted in the identification of individuals responsible for burglaries and thefts of precious metals and other valuable property. Current operations are targeted at thefts of the above items as well as thefts of oil field equipment, interstate shipments and computer equipment and technology.

During Fiscal Year 1981, the General Property Crimes effort resulted in the conviction of 1,311 persons, 895 arrests, and 135 subjects located. In this period, stolen property in the amount of $139,249,758 was recovered, $887,972

in fines was assessed, and $593,856,583 in potential economic loss was prevented.

EXHIBIT No. 34

FBI INFORMANTS

Many sources of information are available to the FBI, but informants undoubtedly provide the single most important means of obtaining information in its most complex investigations. The nature of investigation has become more complicated, and criminal enterprises have reached the degree of sophistication where any anticipation of success would be impossible without the use of informants. Most of the long-term undercover operations and the utilization of electronic surveillance would not be possible without the participation of informants. Informants provide information of intelligence value, the solution of crimes, the recovery of stolen property and contraband, the location of wanted persons, and the detection of crimes in the planning stages.

Informants furnish information regarding criminal acts which are in violation of state laws and of Federal law over which the FBI does not have jurisdiction, such as narcotic trafficking. This information is disseminated to the appropriate law enforcement agency and has greatly assisted overall detection and enforcement of the law at all levels.

The FBI attempts to develop informants who have a willingness and ability to provide information on a regular basis and are of known reliability in matters within its investigative jurisdiction. The ability to control these individuals is also utilized as a factor in determining their suitability to act as FBI informants.

Informants are paid on a cash-on-delivery basis for services rendered and expenses incurred. The amount paid to an informant is determined by the FBI based on the value of the information received.

Informants are not used by the FBI to circumvent legal or ethical restrictions. They are given specific instructions not to participate in acts of violence, use unlawful techniques to obtain information, or initiate a plan to commit criminal acts. Informants are sometimes allowed to participate in criminal activities with persons under investigation if it is determined necessary to obtain information needed for purposes of Federal prosecution. If this participation in criminal acts involves serious criminal activity, authorization is obtained from the U.S. Department of Justice prior to an informant's being used.

COORDINATION OF INVESTIGATIONS

THE FBI COORDINATES INVESTIGATIONS AND IMPLEMENTS NATIONAL POLICY DECISIONS CENTRALLY AT ITS HEADQUARTERS IN WASHINGTON, D. C. REQUIREMENTS FOR THIS FUNCTION ARE $17,915,000 AND 487 POSITIONS, AN INCREASE OF $1,258,000. DETAILS ON THIS PROGRAM ARE PROVIDED IN THE FOLLOWING EXHIBIT:

EXHIBIT No. 35

HEADQUARTERS COORDINATION OF INVESTIGATIONS

The primary purpose of this activity is the overall management of field efforts in ten investigative programs identified as: Civil, Applicant and Other Investigations; Organized Crime; White-Collar Crime; General Government Crimes; Fugitive; Personal Crimes; General Property Crimes and General Crimes Informants; Civil Rights; Terrorism; and Foreign Counterintelligence (FCI). This management function includes such responsibilities as the development of new initiatives, the evaluation of field efforts in connection with each funded program, the administration of certain funds, the coordination of major investigations, the establishment of policy, the identification of training needs, the allocation of investigative resources throughout the field, and the maintenance of liaison with other agencies of the Executive Branch and the Legislative Branch of the Government.

TRAINING

ALL NEW AGENT APPOINTEES MUST ATTEND A TRAINING COURSE AT THE FBI ACADEMY IN QUANTICO, VIRGINIA. THIS TRAINING, IN-SERVICE TRAINING FOR FBI PERSONNEL AND FIELD FEDERAL TRAINING WILL REQUIRE $21,309,000 AND 412 POSITIONS.

COST-FREE TRAINING FOR STATE AND LOCAL LAW ENFORCEMENT OFFICIALS IS PROVIDED AT THE FBI ACADEMY AND THROUGHOUT THE FIELD. THIS PROGRAM ACCOUNTS FOR $12,479,000 AND 283 POSITIONS. THE FOLLOWING EXHIBITS DESCRIBE THESE TRAINING PROGRAMS:

EXHIBIT No. 36

FBI TRAINING

Training provided by the FBI can be generally categorized into two areas: Basic - new agents' training at the FBI Academy, and Specialized - in-service training for Special Agents and support personnel at the Academy and at the field office level.

The New Agents' Training Program provides a high level of instruction to insure that basic knowledge and skills are developed to enable new Special Agents to discharge their complex responsiblilities when they are initially assigned to investigative operations in the field. The First Office Agents also receives professional guidance, assessment and training during their probationary period in the field.

Specialized training is accomplished through formal in-service programs conducted at the FBI Academy for Special Agents and support personnel. Direct field support programs utilizing FBI Academy instructors and/or police instructors assigned to the various field offices affords additional in-service training at the field level.

In-service training is designed to develop the full potential of all Bureau personnel and to specifically enable them to:

- conduct complex investigations in our highest national priorities; organized crime, white-collar crime, and foreign counterintelligence, as well as carry out all other general criminal investigations, and

- apply basic law enforcement skills and knowledge such as legal, behavioral science, firearms, defensive tactics, and raid and arrest techniques.

Employees participate in sophisticated management, assessment, and education program to improve the abilities of support managers as well as our mid and upper-level FBI executives to more effectively carry out their complicated responsibilities including personnel and program management, affirmative action, media relations, and budgeting.

In-service training provides job enrichment and career development opportunities for personnel through educational programs at the FBI Academy and elsewhere.

Training efforts at the Academy and in the field support crisis management training for FBI personnel who will be expected to respond in the event of terrorism, aircraft hijacking, hostage incidents, and other life-threatening situations.

FBI training efforts include faculty improvement and research and development programs, which are essential to provide proper direct field support and training program improvement and assessment.

During fiscal year 1981, 5,051 FBI employees attended various training sessions conducted at the FBI Academy. Three-hundred and twenty new agents received training during this period, with 313 actually being graduated during the fiscal year. Specialized in-service training included courses in white-collar crime, organized crime, foreign counterintelligence, legal matters, crisis management, forensic science matters, behavorial science topics, pilot training and certification, management and executive development, technical and electronic training, and instructor and special seminars.

EXHIBIT No. 37

POLICE TRAINING OPERATIONS

The FBI provides courses of instruction for state and local criminal justice practitioners on a cost-free basis, both at the FBI Academy and throughout the United States at state, regional, and local training facilities in order to improve their administrative, investigative, management, and technical capabilities. This instruction is offered consistent with instructional expertise, availability of personnel, and budgetary limitations.

The principal course offered at the FBI Academy is the "FBI National Academy Program." This is an eleven-week, multi-disciplined course for seasoned law enforcement managers nominated by their agency heads because of their potential for continuing advancement. Sessions are conducted four times a year for a total of 1,000 officers annually. The academic courses in this program are accredited by the University of Virginia.

In response to a void in executive training, the FBI in 1976 initiated the National Executive Institute. This 18-day program, specifically designed for the police chief executives of our Nation's largest law enforcement agencies, is conducted at the FBI Academy on an annual basis. Over 150 chief executives have been graduated from this program. In fiscal year 1981 the Law Enforcement Executive Seminar, which is designed for police chiefs from mid-sized agencies, was implemented and graduated 57 executives.

Specialized schools and courses dealing with a broad range of criminal justice related topics such as Police Personnel Communications, Hostage Negotiation, Terrorism and Counterterrorism, Death Investigations, Interpersonal Violence, Criminal Psychology, and similar subjects are offered at the Academy. They range in length from three days to four weeks and during fiscal year 1981, 145 specialized schools and symposia were offered for 3,774 state and local law enforcement officers. Included in this figure were the following national conferences: Fourth International Symposium on Terrorism presented to 129 top Federal, state and local law enforcement officials; Crime Laboratory Development Symposium with 145 attendees; and Uniform Crime Reporting Symposium with 125 attendees. In addition, an International Symposium was attended by 17 officials.

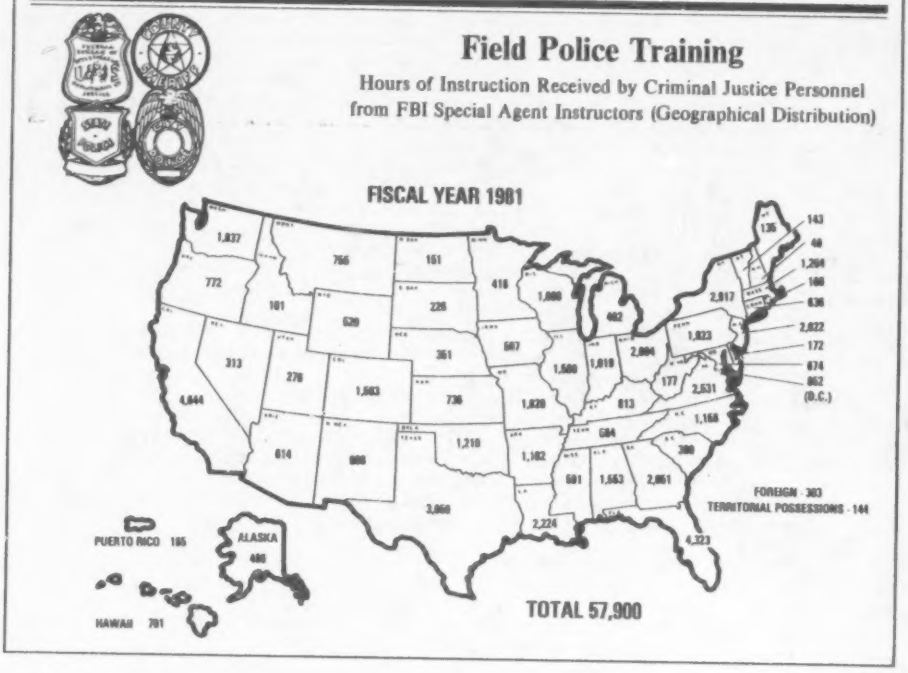
In addition to course offerings, FBI Academy faculty provided research and consultation to local law enforcement on a myriad of topics and investigative techniques, including psycholinguistics, forensic hypnosis, psychological profiling of unknown subjects of multiple homicide and sex crime cases, hostage negotiations, and crisis management.

During fiscal year 1981, FBI instructors provided 57,900 hours of instruction in 4,552 law enforcement schools attended by 139,719 criminal justice practitioners.

Instructors from FBI Headquarters supported this field training effort in a variety of subjects such as forensic science, applied criminology, identification matters, management, uniform crime reporting, arson, death investigation, and instructor development. The Training, Laboratory, Identification, Criminal Investigative, and Technical Services Divisions offered a total of 366 specialized schools to local, county, and state criminal justice personnel.

EXHIBIT No. 38

U. S. Department of Justice
Federal Bureau of Investigation



LABORATORY SERVICES

A TOTAL OF $14,516,000 AND 312 POSITIONS WILL BE NEEDED FOR LABORATORY EXAMINATIONS AND EXPERT TESTIMONY INVOLVING FBI CASES, AN INCREASE OF $2,644,000 AND 24 POSITIONS. THESE POSITIONS ARE NECESSARY TO PROVIDE SCIENTIFIC AND TECHNICAL SUPPORT AND TRAINING IN THE LATEST FORENSIC SCIENCE TECHNIQUES. IDENTICAL SERVICES ARE PROVIDED BY THE SAME EMPLOYEES TO ANY REQUESTING STATE AND LOCAL LAW ENFORCEMENT AGENCY. THIS WILL REQUIRE $6,782,000 AND 122 POSITIONS IN FISCAL YEAR 1982, WHICH IS $391,000 AND 1 POSITION MORE THAN THE BASE FOR 1981. THESE TWO PROGRAMS ARE EXPANDED UPON IN THE FOLLOWING EXHIBITS:

EXHIBIT No. 39

Laboratory Services

The FBI Laboratory is one of the largest and most comprehensive crime laboratories in the world. Since its inception in 1932, it has provided leadership and service in the scientific solution and prosecution of crimes in the United States.

FBI Laboratory services are funded and administered under two programs called Forensic Services - Federal and Forensic

Services - Non-Federal. Although a distinction is made in administering funds and capturing statistics, all Laboratory examiners and technicians work in both programs using the same laboratory facilities and instrumentation.

Under the Forensic Services - Federal program FBI laboratory examiners participate in ongoing field investigations by conducting crime scene searches; performing special surveillance photography; executing search warrants; and providing other on-scene scientific and/or technical services as necessary. Forensic examinations of evidence are performed in the Laboratory in support of FBI and other Federal investigations. Expert court testimony and demonstrative evidence are provided as necessary to enhance prosecutive efforts. Funding in this program also supports an active and successful forensic science research program and forensic science training for Federal investigative and crime laboratory personnel at the newly completed Forensic Science Research and Training Center. This 7.5 million dollar facility was painstakingly designed and equipped to meet the rigorous demands of these activities.

Under the Forensic Services - Non-Federal Program the extensive resources of the FBI Laboratory are made available to state and local law enforcement agencies throughout the United States. The present policy is to concentrate on providing sufficient training to state and local crime laboratory examiners of physical evidence and decrease their dependence on the FBI Laboratory. Direct services will continue to be provided in cases when law enforcement agencies do not have access to jurisdictional laboratories and instances where the jurisdictional laboratory does not have the necessary instrumentation and/or expertise to perform the indicated examination.

The success of efforts to decrease reliance of state and local law enforcement agencies on the FBI Laboratory, through providing highly specialized training in forensic disciplines to their crime laboratory examiners, is dependent upon adequate funding for this program. Much of this training is not available anywhere else in the United States and without it jurisdictional laboratories will find it difficult to improve and expand their capabilities.

EXHIBIT No. 40

FBI LABORATORY ACCOMPLISHMENTS

During fiscal year (FY) 1981, 910,810 forensic examinations were conducted by the FBI Laboratory. Compared to the FY 1980 total of 719,060, there was an increase of nearly 27%. FBI Laboratory management credits this increase to advanced technology which has broadened evidence examination potential, and to complex cases resulting from the emphasis placed on priority FBI investigative programs.

Of those examinations performed, approximately 612,651 or 67% were conducted at the request of FBI and other Federal agencies. The remaining 33%, or approximately 298,159 examinations, were performed pursuant to requests received from the non-Federal sector (state, county, and municipal law enforcement agencies). Throughout FY 1981, Laboratory examiners responded to 955 commitments for testimony in courts of various jurisdiction throughout the United States. These commitments required the expenditure of 2,012 workdays. In slightly over 18% of these commitments our examiners were not required to take the stand because of guilty pleas, case dismissals, stipulations, etc. These court appearances without testimony required a total of 359 workdays.

Other notable accomplishments include the translation of 13,742 pages of foreign language text and the preparation of 5,333 investigative and prosecutive aids.

EXHIBIT No. 41

CURRENT FBI LABORATORY RESEARCH AND TRAINING EFFORTS

The Forensic Science Research and Training Center located at the FBI Training Academy was formally opened and dedicated on June 16, 1981. This unique facility houses both research and training laboratories and classrooms, and serves to meet the needs of the forensic science community by providing an outstanding environment for practical "hands-on" training and applied research.

The FBI Laboratory engages in a full program of forensic science training for Federal, state, and municipal law enforcement/crime laboratory personnel. During FY 81, over 1,200 individuals representing various Federal investigative agencies received training in one or more forensic science topics. This training program is designed to maximize the use of physical evidence in the solution and prosecution of crime and enhance the capabilities of personnel from state and local crime laboratories throughout the United States, thereby serving to reduce their respective organization's dependence on FBI Laboratory facilities.

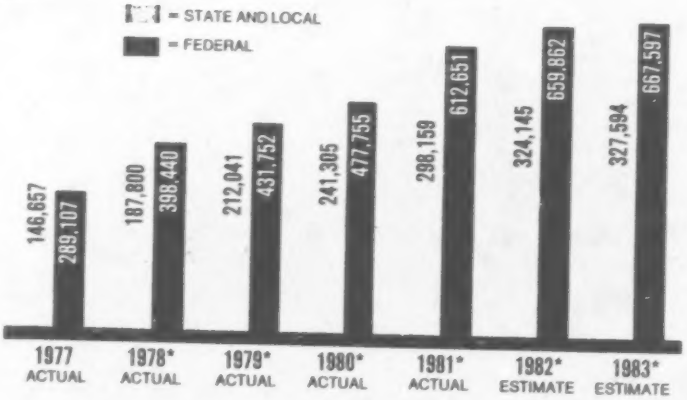
In order to stay abreast of advancing technology, the FBI Laboratory engages in a research program which encompasses the entire range of forensic disciplines and focuses on targets identified through close liaison not only with FBI investigators, but with the entire law enforcement community. Results of this research are shared through publication of the "Crime Laboratory Digest" which is circulated throughout the law enforcement community. Laboratory scientists also prepare articles for various scientific journals. The most recent noteworthy advances in research include the sex determination from a dried bloodstain and the introduction of a tagging technique for identifying stolen gasoline in bulk quantities.

EXHIBIT No. 42

U. S. Department of Justice
Federal Bureau of Investigation

FBI Laboratory Examinations for Federal, State and Local Agencies

Fiscal Years



* Figures include change in collecting examination statistics to demonstrate examinations conducted in document matters in a more accurate manner.

FINGERPRINT IDENTIFICATION

THE FBI STILL MAINTAINS THE LARGEST FINGERPRINT STORAGE AND RETRIEVAL SYSTEM IN THE COUNTRY. LATENT FINGERPRINT EXAMINATIONS AND EXPERT TESTIMONY ARE ALSO AVAILABLE. UNDER THIS REQUEST THE FINGERPRINT IDENTIFICATION PROGRAM WILL REQUIRE 2,831 POSITIONS AND $67,940,000, A DECREASE OF 200 POSITION FROM THE PREVIOUS YEAR. THE FOLLOWING EXHIBITS RELATE TO FBI FINGERPRINT OPERATIONS:

Exhibit No. 43

FINGERPRINT OPERATIONS

The FBI's Identification Division serves as the national repository and clearinghouse for fingerprint records. In that capacity, the Division furnishes identification and arrest record services to over 17,800 agencies which are authorized by Federal statutes, regulations, and executive orders to utilize the Division's services. The Division's files act as a "locator" or "index" of criminal arrest activity throughout the United States, thus avoiding time-consuming and costly checks of all 50 states to ascertain a person's complete criminal history. The increased mobility of today's criminals necessitates prompt, accurate, and complete criminal record checks, which can only be accomplished by use of the single point of inquiry provided by the Division.

When created by an Act of Congress in 1924, the Division possessed only about 810,000 fingerprint records. As of December 1, 1981, the Division possessed over 175 million fingerprint cards, of which over 79 million contain arrest data for approximately 21 million persons. The remaining 96 million fingerprint cards represent approximately 45 million persons who have been fingerprinted in connection with employment in Federal Government agencies, military service, alien registration, and personal identification.

The great amount of reliance placed upon the Division's services is evidenced by its enormous workload. During each workday of fiscal year 1981, the Division received an average of 45,656 pieces of mail of which 27,392 were fingerprint cards and 18,264 were requests for name checks, identification records, and other types of correspondence, including requests to expunge or purge arrest data previously submitted. These requests were submitted by: Federal, state, and local criminal justice agencies for law enforcement purposes; Federal, state, and local government agencies and officials for employment and licensing purposes; certain friendly foreign governments for international police cooperation purposes; and banking and securities institutions for employee security purposes.

The following types of services are provided by the Division: fingerprint card identification; arrest recordkeeping; posting of wanted and probation/parole notices; examination of physical evidence and crime scenes for latent fingerprints, and provision of court testimony as to the results; fingerprint training; and identification of amnesia victims and unknown deceased persons.

Major accomplishments during fiscal year 1981 included: the processing of about 6.5 million fingerprint cards and over 4.5 million other pieces of correspondence; the identification of 27,052 fugitives by their fingerprints; the handling of 22,635 latent fingerprint cases, some of which involved the use of advanced laser equipment technology; and the furnishing of assistance in the identification of deceased victims of the crash of an Air Force aircraft near Walkersville, Maryland, on May 6, 1981.

During the fall of 1980, a program to hire and train hearing-impaired persons as Fingerprint Examiners was implemented. Ten deaf employees are currently working in the Division, and three of them have successfully completed the 12-week course for the position of Fingerprint Examiner. Since the feasibility of training hearing-impaired persons as Fingerprint Examiners has been demonstrated, a new field of employment for the handicapped has been established.

The Division continues to make significant progress toward automating its work functions. During fiscal year 1981, another one million arrest fingerprint cards were added to the Division's computerized file of fingerprints, bringing the file's total to over 14 million fingerprint cards. During fiscal year 1981, the Division inaugurated automated fingerprint searching in four of the 23 units of its Criminal Fingerprint File. Also, 831,004 first-time offender records were added to the Division's automated arrest record file. That file now numbers over 5.9 million arrest records, and is growing at the rate of over 3,000 new records each workday.

EXHIBIT No. 44

IDENTIFICATION DIVISION ACCOMPLISHMENTS

The Identification Division's workload continues to be very heavy. The following table lists some of the Division's work production accomplishments during fiscal year 1981:

Type of Accomplishment	Number of Accomplishments
Fingerprint cards processed	6,461,592
Correspondence, forms, and name checks processed	4,448,185
Expedite and special requests processed	87,832
Disposition reports processed	2,516,807
Wanted and probation/parole notices maintained on file	191,482
Fugitives identified by fingerprints	27,052
Expungement and purge requests processed	865,688
Nonserious offense entries deleted from arrest records	393,512
Latent fingerprint cases handled	22,635
Suspects identified from latent fingerprint examinations	4,082
Federal, state and local court appearances made by Latent Fingerprint Experts	250
Sentences resulting from court proceedings:	
Prison terms (Years)	2,930
Life sentences	18

EXHIBIT No. 45

AUTOMATED IDENTIFICATION DIVISION SYSTEM (AIDS)

The Automated Identification Division System (AIDS) is the name given to the FBI's project to automate the fingerprint work operations carried on in its Identification Division. Because of the enormity of the undertaking, AIDS is being implemented in three phases (called AIDS-I, AIDS-II, and AIDS-III) over a period of several years. Significant progress has been made to date as indicated below:

AIDS-I

This phase provided for the building of a computerized file of identification and arrest data on first offenders, the generation of name index cards for the Division's manual criminal name indices, and the generation of "No Record" or arrest record responses to fingerprint cards, name checks, and other types of inquiries. AIDS-I became operational on August 30, 1973, and since that time over 5.9 million first offender records have been entered into the system and kept updated with subsequent arrest and related data. On October 18, 1979, AIDS-I was phased over to AIDS-II.

AIDS-II

As indicated above, AIDS-II superseded AIDS-I on October 18, 1979. This phase provides for enhanced AIDS-I capabilities (e.g., allows for "on-line" processing versus previous "batch" processing) and the addition of computerized name-searching capability in place of the generation of name index cards for the manual criminal name indices. Computerized name searching of the automated arrest record file was initiated on October 29, 1979.

AIDS-III

This phase has yet to be implemented. When completed it will provide automated fingerprint searching capability. It will also incorporate all previously-developed capabilities (e.g., automated name searching) and data bases (e.g., the automated first-offender file), as well as new capabilities (e.g., conveyor beltways to automatically transport fingerprint cards from one work station to another) to make up a fully integrated, highly efficient, fingerprint card processing system. Consequently, this is the most difficult, time-consuming, and costly phase of the automation program.

As automated fingerprint identification capability had not been developed elsewhere, the FBI in 1967 embarked on a program of research and development for the purpose of inventing special-purpose computer equipment and logic to perform the task. Subsequently, the following milestones have been achieved in the program: the feasibility of automated fingerprint reading and matching (identification) was proven in a laboratory environment during 1968-69; a prototype fingerprint reader was acquired in 1972; a prototype fingerprint matcher was acquired in 1976; five production-model fingerprint readers were acquired during 1976-77; these five readers were used to convert over 13.5 million criminal fingerprint cards to computerized form during 1977-80; and a pilot automated fingerprint searching unit was implemented in 1979.

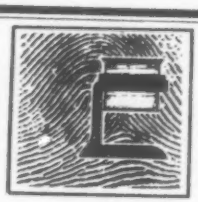
The next step is to proceed with the procurement and implementation of AIDS-III. This phase was originally scheduled to be completed in 1983; however, funding was withheld from the budgets for fiscal years 1980, 1981, and 1982. The reason for withholding funds from the 1981 and 1982 budgets was to await the results of a study by the Jet Propulsion Laboratory (JPL) on the technical, economic and operational feasibility of AIDS-III. In a preliminary report dated November 15, 1980, JPL advised that it is not feasible for the Identification Division to continue to operate in its current mode; and therefore, the FBI should proceed with automation as soon as possible. The report made a number of recommendations for improving the AIDS-III concept and they are being incorporated into the final implementation plan. The report estimates that the cost savings from automation would not only offset the cost of completing AIDS-III, but would also result in a discounted savings of nearly $20 million over the 25-year evaluation period. Additionally, personnel staffing could be

reduced by 900 to 1,000 employees (from a complement of 3,400), fingerprint search accuracy would increase by 19 percent, and the average work-processing time would be reduced to under eight hours. A final report is to be submitted by JPL.

Our current plans for AIDS-III call for the preparation of the functional specifications for the system during fiscal years 1982 and 1983, leading to the award of a contract for the building of the system by the end of fiscal year 1984. Providing that necessary funding is approved for the project, AIDS-III would be operational by fiscal year 1988.

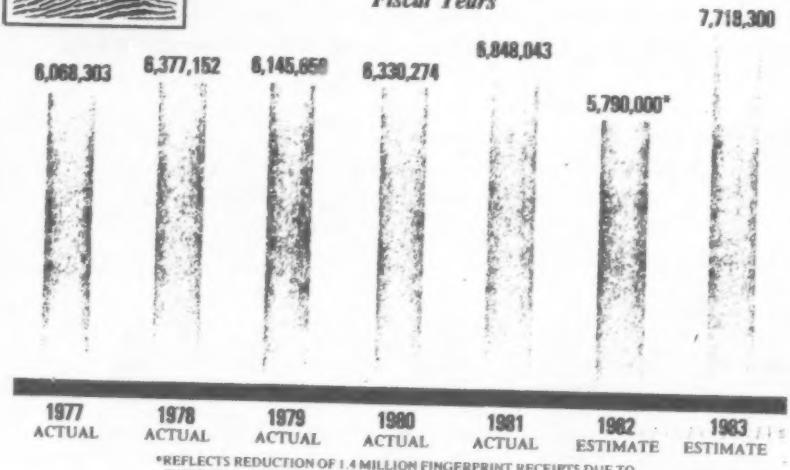
EXHIBIT No. 46

U. S. Department of Justice
Federal Bureau of Investigation



Fingerprint Receipts

Fiscal Years

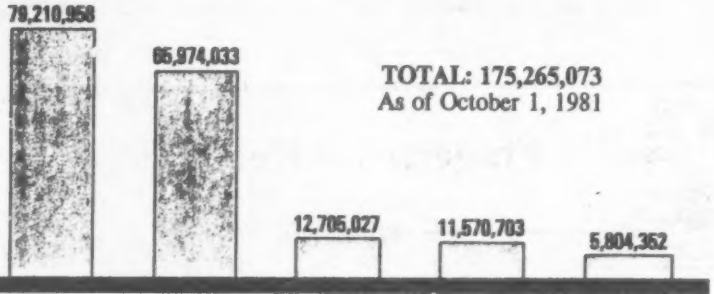


*REFLECTS REDUCTION OF 1.4 MILLION FINGERPRINT RECEIPTS DUE TO SUSPENSION OF PUBLIC LAW 92-544 FOR FISCAL YEAR 1982

EXHIBIT No. 47

U. S. Department of Justice
Federal Bureau of Investigation

Number Of Fingerprint Cards On File



TOTAL: 175,265,073
As of October 1, 1981

ESTIMATED NUMBER OF PERSONS REPRESENTED:

For the 79,210,958 prints in the criminal file	21,064,948
For the remaining prints totaling 96,054,115 all of which are in the civil file	44,905,851
TOTAL ESTIMATED PERSONS REPRESENTED	65,970,799*

* WITHOUT ACCOUNTING FOR PERSONS DUPLICATED IN BOTH FILES.

EXHIBIT No. 48

AUTOMATIC DATA PROCESSING AND TELECOMMUNICATIONS PROGRAM (ADPT)

The ADPT program provides the FBI with information collection, storage, retrieval, and dissemination capabilities through the use of automatic data processing, telecommunications, and word-processing resources. The FBI has followed a policy of using ADPT resources to directly support investigative as well as administrative requirements wherever it would achieve greater efficiency. In addition to meeting its own vital mission-oriented information processing requirements, the FBI also dedicates a significant amount of its data processing resources to support certain related needs in the entire criminal justice community. The investigative, administrative, and law enforcement support systems are managed centrally to make the most efficient use of the FBI's computer resources.

EXHIBIT No. 49

U. S. Department of Justice
Federal Bureau of Investigation

Utilization Of Professional Computer Personnel In Fiscal Year 1981

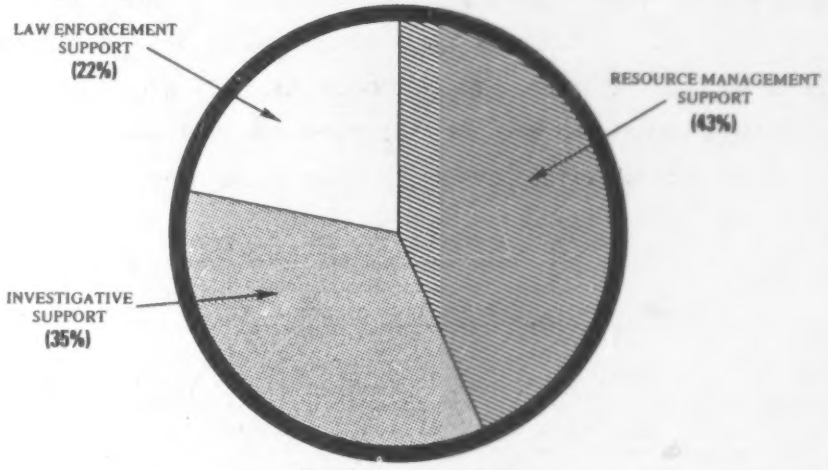
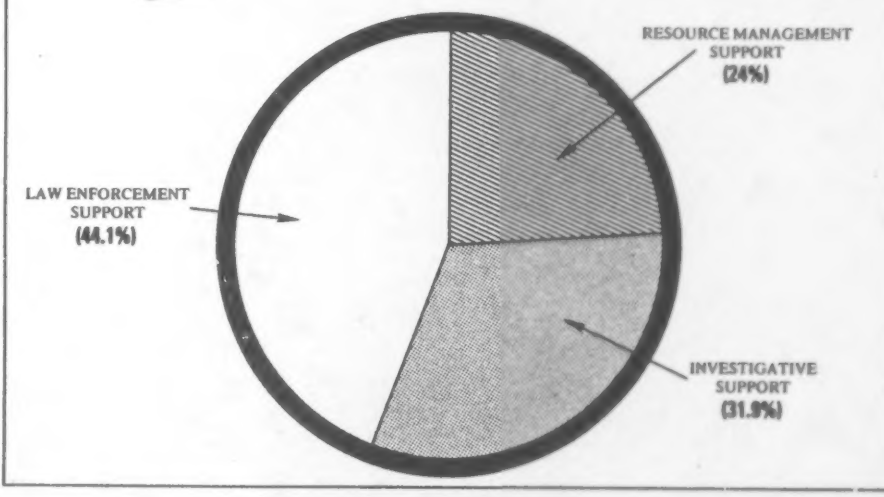


EXHIBIT No. 50

U. S. Department of Justice
Federal Bureau of Investigation

Utilization Of Computer Resources In Fiscal Year 1981



CRIMINAL JUSTICE DATA AND STATISTICS SERVICES

THE FBI COMPILES AND PUBLISHES THE UNIFORM CRIME REPORT, WHICH PROVIDES THE INCIDENCE OF REPORTED CRIMES THROUGHOUT THE UNITED STATES AS SUBMITTED BY APPROXIMATELY 15,000 INDIVIDUAL AGENCIES. THE FBI ALSO MAINTAINS THE NATIONAL CRIME INFORMATION CENTER WHICH PROVIDES INFORMATION ON STOLEN PROPERTY, WANTED PERSONS, MISSING PERSONS, AND CRIMINAL HISTORIES TO CRIMINAL JUSTICE AGENCIES. TO CONTINUE THESE FUNCTIONS, $5,947,000 AND 196 POSITIONS WILL BE REQUIRED. THE FOLLOWING EXHIBITS WILL FURTHER DESCRIBE THIS PROGRAM AS WELL AS DEPICT THE PERCENTAGE CHANGE OF CRIME IN THE UNITED STATES BETWEEN CALENDAR YEARS 1976 AND 1980:

EXHIBIT No. 51

NATIONAL CRIME INFORMATION CENTER (NCIC)

The NCIC is a nationwide criminal justice information teleprocessing network which provides documented criminal information to the entire criminal justice community. NCIC contains records on stolen property, i.e., vehicles, license plates, guns, securities, boats, and serialized articles; wanted persons for whom arrest warrants are outstanding; criminal histories on persons arrested for serious offenses; and missing persons meeting specific entry criteria. An NCIC Advisory Policy Board, made up of Federal, state, and local criminal justice officials, furnishes advice to the FBI Director on policy matters concerning NCIC operations and thereby allows the users a voice in the overall management of the system. The users of NCIC, which include the criminal justice agencies in the 50 states, all Federal law enforcement agencies, the Royal Canadian Mounted Police, the Police of the Commonwealth of Puerto Rico, and the U.S. Virgin Islands, obtain these services on a non-reimbursable basis.

EXHIBIT No. 52

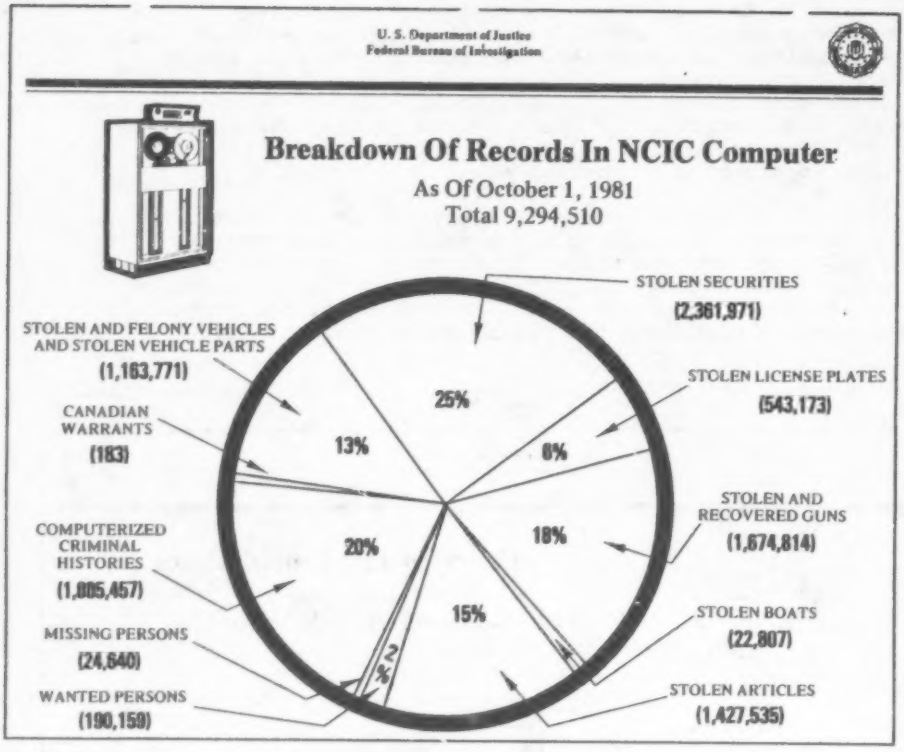


EXHIBIT No. 53

UNIFORM CRIME REPORTING

The Uniform Crime Reporting Program was conceived and implemented by our Nation's law enforcement agencies in 1930. At its inception, two basic needs were recognized. First, it was believed the American people deserved an accounting of the extent and nature of criminal activity. Second, law enforcement leaders needed an administrative tool to better manage their departments.

On a monthly basis, this Program collects statistical data concerning the incidence of criminal acts from over 15,000 individual law enforcement agencies nationwide. The data collection is grouped according to certain basic types of offenses-- murder, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson. These categories comprise the Crime Index. Additionally, statistical information on arrests, property loss, and other factors relevant to criminal activity is aggregated. Analyzed data are disseminated in various formats such as:

1. Semiannual releases on crime trends, law enforcement officers killed, and bombing incidents.

2. Annual publications of "Crime in the United States," "Assaults on Federal Officers," "Bomb Summary," and "Law Enforcement Officers Killed."

3. Periodic reports to the Attorney General on the incidence of parental kidnaping.

When first implemented, the Uniform Crime Reporting Program was used on a relatively limited basis. Now, however, this Program is relied upon by many people and organizations from widely varying professions. Scholars depend upon this data to better understand the seriousness of crime and its effect on our society. Legislators rely upon it for direction in developing necessary legislation to more effectively combat crime. Administrators of the criminal justice community use the information to plan their activities so as to have the maximum impact on the criminal element.

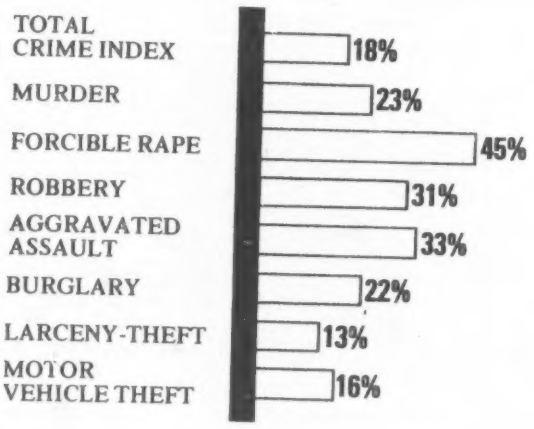
Substantial cooperative efforts at all levels of the law enforcement community are necessary in gathering the data upon which the Uniform Crime Reporting Program depends. The benefits derived from the Program are indeed significant and have resulted in an increased understanding of the crime problem which confronts the citizenry of this country.

EXHIBIT No. 54

U. S. Department of Justice
Federal Bureau of Investigation

Crime In The United States

Percent Change
Calendar Years 1976 Versus 1980



FURTHER HEARINGS

Senator WEICKER. I think what I would like to do, and we will work this out between yourself and the schedule of the committee, is to set up, at some time in the next month or so, an executive session.

Mr. WEBSTER. Fine.

Senator WEICKER. At that time you can go into detail on the counterintelligence matters.

ADEQUACY OF RESOURCES

As you indicated in your presentation, your levels are the same for 1983 as for 1982, and you have indicated where the cuts have come in order to do that. I suppose my question is: Is the bottom line a function of need and/or opportunity or is it a function of budget balancing in the overall? In other words, are you satisfied that you are truly doing the job, No. 1, that needs to be done, and/or the job that should be done; or, are you conforming to figures for the sake of figures?

Mr. WEBSTER. I think the figures are driving the end budget. There is an overall effort to economize and to hold the line on the budget. We are a part of that effort. I think we probably came off better in the process than most of the other agencies of Government.

This particular figure sort of shrinks down to the realities of the situation, what we are able to hire in relation thereto, rather than the figures where we were authorized positions but didn't have the money to fill them. They will hold, unless we are asked to absorb more costs in fiscal year 1983, which will again make it impossible for us to hire the numbers actually authorized by Congress.

Senator WEICKER. I think it has been made very clear on the floor—and, I am not speaking for my own feelings—but I think it was made clear on the floor in the debate last year, and I am sure it will be made clear again this year, and I want to be satisfied in the response I will be asked to give that the Congress, or the Senate, does consider the Federal Bureau of Investigation to be a priority item in their minds.

Now, the Senate has said so. I don't think that it wants to see the FBI cut to the point where it is unable to perform its duties. By performing its duties, I don't mean just taking care of whatever the situation happens to be, but doing those things which, in effect, are preventive in nature.

I want to make certain when I stand up at the time we present this bill on the Senate floor that I can assure my colleagues that that is the case. Or if somebody stands up, as they could very well do, and say, "We want a 10-percent increase across the board," whatever it is, "for DEA, for the Federal Bureau of Investigation," et cetera, I want to be able to respond. That is the reason why I am asking you this question, because I know it is going to come up.

Mr. WEBSTER. Well, there isn't any question that we could do more with more resources. I think that is a given. We identified things we wanted to do that we weren't able to do because of budgetary constraints. I think we have made the best budget that we can come up with with the funds that were finally made available to us. The reduc-

tion of 408 positions states the real world a little more accurately, unless we are asked to absorb more costs, in which case we will actually feel the reduction.

Senator WEICKER. Let me ask you this: Of all the areas that you have here in your budget, which are you the most concerned with as to the impact of the cuts? Which are the ones that you feel are the shakiest, if you had to identify them? Or would you like to provide that for the record?

Mr. WEBSTER. I think I had better provide it to you for the record because part of it is in the classified area.

Senator WEICKER. All right.

[The information follows:]

IMPACT OF 1983 REDUCTIONS

The reduction of positions in fiscal year 1983 relates to positions for which there was no funding available. Had these positions remained in our budget, they could not have been filled. As a consequence, with reference to actual agents doing investigative work, the reduction in positions will not result in fewer agents conducting investigations in fiscal year 1983 than are doing so now.

Our increased responsibilities and changing priorities impact on both our criminal and foreign counterintelligence investigative responsibilities. In response, we reallocate available resources to respond to the challenge. The result is that what may have been important last year may not be of equal importance this year given changing emphasis and static resources.

Coincidentally, we will evaluate whether additional resources must be requested or whether the work can be absorbed by other law enforcement agencies.

We also continuously evaluate ways to improve efficiency of our operations—that is, to accomplish more with fewer resources. This involves improved processing of information through the use of the computer and improved processing of work such as through automation of our fingerprint identification services.

INVESTIGATING MEMBERS OF CONGRESS

Senator WEICKER. Yesterday the majority and minority whips in the Senate indicated that they would introduce a resolution calling for a Senate probe of the way the FBI and other law enforcement agencies have targeted Members of the Congress for investigation. As Director of the FBI, would you welcome such an investigation?

Mr. WEBSTER. Candidly, I never welcome any investigation that debilitates our resources and detracts us from our mission. But this committee has oversight responsibility, and I assume that the chairman, with the concurrence of the other members, could conduct any inquiry that he wanted to conduct without the need of a resolution.

Senator WEICKER. I want to make clear the call for the investigation came from Senator Stevens and Senator Cranston. I just wondered what your reaction to that is.

Mr. WEBSTER. I realize that. I am just saying that this committee could, without any such resolution, on its own, it seems to me, conduct any inquiry that it felt was appropriate. I view the FBI as accountable to the oversight responsibilities of the Senate. We will certainly respond to anything you feel is necessary.

Senator WEICKER. Let me say this: I remember the response to the questions that were posed to you early on in this whole scenario. In-

deed, the record bore out the statements that you made early on. Let me say that the record is clear on the fact that you have been forthcoming and nothing you have said has backfired.

I also say to you that there is a concern among my colleagues in the Senate as to this procedure. It is there. It is talked about in the cloakrooms, on the floor, et cetera. I think that probably it would be a good thing to clear the air in the sense a responsible dialog between the Senate and the various law enforcement agencies involved, because I know your record well enough. As a jurist, you know that there are legitimate constitutional questions which are raised in matters such as this, aside from whatever facts pertain to the situation, which I don't intend to get into.

So anyway, I will certainly confer, as I am sure—is it judiciary that has the authorizing jurisdiction over the FBI?

Mr. WEBSTER. Yes.

Senator WEICKER. I will certainly confer with Chairman Thurmond on it to see if something can be arranged where such a dialog can take place, because I think my attitude is well known as to matters of wrongdoing in Government. That aside, I also recognize the very delicate balance that we have between our various branches of Government. There has been an exercise of difference of opinion in that sense. But I think it is important there be some sort of dialog on it.

Mr. WEBSTER. I certainly am prepared and would be happy to participate in such a dialog. I think the chairman knows that I do not view the FBI to be the Senate's watchdog. Our responsibility is to follow up on allegations of misconduct when they occur, wherever they occur. I would be happy to see along the way—I think at least all of our techniques, particularly those that are covert, ought to be subject to analysis and scrutiny, at a time and place when it doesn't prejudice or imperil either the investigation or the individual rights of the people involved.

Senator WEICKER. I agree with that.

FBI-DEA RELATIONSHIP

Can you explain to the committee what new relationship now exists between the FBI and DEA and how it will work?

Mr. WEBSTER. We are getting off the ground, but we have been doing it I think in a very logical and orderly way. Last June or July, on my recommendation, the Attorney General designated Francis Mullen, who was then Executive Assistant Director for Investigations of the FBI, to be the Acting Administrator of DEA. He took with him a number of FBI agents as advisers to study the situation.

At the same time that this was taking place, a task force or committee headed by Rudolph Giuliani, the Associate Attorney General, on which I sat and Mr. Mullen sat, considered the general approach to the realinement of the two agencies in order to have more effective impact on the drug problem.

We came up with an approach which I fully supported which was then submitted to the Attorney General, and he acted on it in January of this year. That approach briefly is this. There would be no formal

merger. The impact and momentum would be maintained in the DEA and the FBI would increase its committment in the drug field in areas where we felt we could most appropriately be of service to the country, with the resources that we had and particular skills that we had.

The Drug Enforcement Administration, under the Attorney General's order, now reports to the Director of the FBI. Together we are developing a strategy. Since June of last year, when we began this approach, we moved from something like 6 joint investigations in drug matters to over 125 joint investigations.

You have seen in the papers, perhaps, the last couple of weeks the indictments in southern Florida in what we call the *Pee Wee Griffin* case. The newspaper reported on the stock car case. The *BANCOSHARES* case, which I referred to in my opening statement, while it was primarily an FBI operation, involved the Customs Service and DEA, which was important in the final stages of that investigation.

We are learning we can work together. We have been working together and we have been meeting, pulling together, designing cross-training and cross-fertilization of the two agencies.

At the same time we are doing this, the Attorney General is preparing to address, through one of the Cabinet councils, the problem of interagency cooperation both in terms of State Department assistance and military assistance on interdiction of the massive amounts of drugs coming by surface and by air into the country. We are still pulling this together. Mr. Colwell is here with me. He is in charge of the group that is setting up blended communications, the methods by which the two organizations will work. We are actually functioning that way. We are just improving it. In this way we have no problems with who gets to be a special agent of the FBI or who has to leave because he doesn't have a college degree. All the problems people anticipate are simply going to be handled in a different way.

The DEA is going to be the principal actor, as it is supposed to be in the drug field. The FBI is going to try to find the resources in its budget to materially assist in the effort.

I should point out—I am sorry for the lengthy answer, but it is a very important question.

Senator WEICKER. That is all right.

Mr. WEBSTER. I should point out that our primary port of entry to the drug field is in our organized crime program. So when we utilize the funds from our organized crime program, it goes in an area very consistent with what the Congress intended us to use that money for.

In the *BANCOSHARES* case, for instance, we struck at four out of seven major Colombian cartels. Our accounting expertise and ability to do financial work will augment, complement, the street skills of the DEA. We hope to build those skills into DEA as well as to develop other institutional knowledge that the Bureau does not have as well as DEA in areas where we should. This generally is how we are approaching it.

In addition, the advantage that was not available in the past, and we have to measure this, of course, against resources and other program

commitments, but DEA for too long has been simply short in its ability to respond to a particular problem in a particular area. You have planes landing at night in Fort Myers, Fla. and the outskirts of Fort Myers on those empty highways with no homes built out there and only three or four DEA agents in the entire area, it is almost open season on Florida.

We have authorized and are in the process of moving 40 additional special agents into southern Florida, where the previous complement was about 150. So it is a significant increase. DEA is sending 20 more. We are already working with customs on initiatives on their part to help the situation move on.

We are not in a position to take over the street work of DEA, but we are in a position to be anywhere in the United States to respond to reactive situations or to provide welcoming parties for those smugglers coming into the country. And with the help of the military, which we have high hopes about now because of the President's modification of the Posse Comitatus Act restrictions, we should begin to see some progress in that area.

That generally is the focus. It is a locked-arms effort with clear management responsibility from the Administrator to me to the Attorney General.

DECLINE IN SPECIAL AGENT POSITIONS

Senator WEICKER. Nevertheless, your special agents have declined from 8,850 in 1976 to 8,021 in 1983. This year alone there is a reduction of 121. It seems you are picking up an awful lot more in the way of responsibility while at the same time your personnel is on the decline.

Mr. WEBSTER. That is correct. I guess I would have to be as completely candid as I can on this. I think the Congress wants us to spend the money that it gives as wisely as we can, and we are in the process of identifying those programs that rank lower in the order of things that can be either handled on a deferred basis or referred to local law enforcement, who have the same problems. But nothing I think is more important to the country in terms of law enforcement than to get a serious handle on narcotics, which generates so much crime in this country.

Senator WEICKER. I don't think there is any argument about that. I am just concerned. I grant you, nobody is minimizing the importance of narcotics as a source of crime. But there is going to come some point, it seems to me, where other activities that are important are going to be impacted. I will introduce at this point a chart indicating the decline in FBI personnel.

[The information follows:]

NUMBER OF PERMANENT SPECIAL AGENT SUPPORT POSITIONS FISCAL YEARS 1975–83

				Changes between fiscal years		
	Agent positions	Support positions	Total positions	Agent positions	Support positions	Total positions
Fiscal year:						
1975	8,786	11,539	20,325	+64	−123	−59
1976	8,850	11,416	20,266	−370	−152	−522
1977	8,480	11,264	19,744	−142	+590	+448
1978	8,338	11,854	20,192	−192	−124	−316
1979	8,146	11,730	19,876	−104	−34	−138
1980	8,042	11,696	19,738	+29	−461	−432
1981	8,071	11,235	19,306	+71	+79	+150
1982	8,142	11,314	19,456	−121	−287	−408
1983	8,021	11,027	19,048			
Cumulative change from fiscal year 1975 to fiscal year 1983				−765	−512	−1,277

IMPROVE MANAGEMENT CAPABILITY

Mr. WEBSTER. I think that is right.

Senator WEICKER. Maybe you can do a little shaving off some of the areas, but sooner or later there are other equally important sources of criminal activity that are going to be shortchanged.

Mr. WEBSTER. We can improve our management capability between the two organizations. We are doing that. That will save some. Obviously, as we are able to develop our work on static resources, we have to find other things that we thought were important but perhaps are less important to ease off on.

SUSPENSION OF FINGERPRINT IDENTIFICATION

Senator WEICKER. On October 1 the Bureau suspended the processing of requests for fingerprint identification from noncriminal justice agencies. This has resulted in the denial of this service to State licensing and regulatory agencies, banks, and other financial institutions.

The intent is to institute a user fee system. Reimbursable positions are provided in the budget for this purpose. However, they will not be hired until October 1. So, realistically, it will be several months before they are trained and the program is fully operating.

We have received a number of inquiries from State agencies which no longer have access to fingerprint identification services. We attempted to add $2 million in the fiscal year 1982 Senate bill so that you could proceed to hire and train necessary personnel and have the reimbursable program fully operational prior to October 1.

If you don't get this seed money, will you have to wait until October 1 to hire and train personnel?

Mr. WEBSTER. Obviously any money that comes our way would be put to use to shorten the timeframe. Our first order of business—and

this was one of the hard choices we had to make—but the first order of business is to shrink the backlog of fingerprint cards that were slowing down the criminal justice function and identification business. We were almost half a million cards behind. Our turn-around time was 27 workdays.

By having suspended the noncriminal justice services that we were previously supplying without charge, and utilizing the people that have been available for that, we had been attacking that backlog and we have reduced the turn-around time from 27 to 19 workdays at the present time, since October 1. We are roughly on schedule.

If we are able to maintain that schedule, by the first of October we should be back in business. We will then resume those noncriminal justice functions on a cost reimbursable basis.

We identified the problem. We have been trying to do something about it since almost a year ago. It was a hard decision to make and we made it. I think it is working according to schedule.

Any money that comes our way will be used for that purpose, to speed it up, because we do have some problem, like the bank employees, that it is a little hard for us to deny them a service. At the same time we are reminding them there is five times as much money taken out of the back door in embezzlement than lost in bank robberies. There are also the guards. The beauty salon operators we don't worry too much about, but there are a lot of other people put in positions of trust that we can simply not service at the present time. But not to have made that choice at that time was to slow the whole justice process due to the uncontrollable drag. Too much crime can be committed in 27 workdays.

INFORMATION NETWORK CONCERNING MISSING CHILDREN

Senator WEICKER. During consideration of the fiscal year 1982 appropriation act, two Senate amendments affecting the operations of the Bureau were adopted.

The first amendment would establish a national computer information network to assist in finding and identifying missing children. What effect would this requirement have on the FBI? Do you have the resources to fulfill this requirement? What is necessary to carry it out?

Mr. WEBSTER. It is not in the budget. As far as the missing children are concerned, our main concern in that legislation is that it not make the FBI the main place to report the missing children. At the present time, with no increase in cost to the FBI, those files can be submitted locally in the local police stations and put into the NCIC system without increasing our cost burden. Were we to become the central place to file those reports, that is our local offices, that would significantly increase our cost.

The other was a proposal, a companion piece, which was an unidentified dead file in NCIC, which we estimate would cost about $48,000 and 2 work-years, with a recurring cost of about $285,000 a year and 4 work-years. These are not in the budget.

BAN ON FUNDS FOR MESSAGE SWITCHING

Senator WEICKER. The second amendment would bar the use of funds for message switching until a plan for such a system has been approved by Congress. What effect would this amendment have if adopted?

Mr. WEBSTER. That is a little broad for us. It impacts on our operations beyond NCIC as presently drawn. If they are just pure message switching applying only to the NCIC system, the only effect of continuing that restriction would be on Alaska and Puerto Rico, which need message switching in order to participate in the national law enforcement telecommunications system. But we have an out-of-date teletype system, secure teletype system, that we are trying hard to improve when we can find the resources to do it. Currently it may take as much as 4 hours to pass through the most urgent classification or message that we have. Any type of updating of that system would involve something that would be technically called message switching.

I think Congress intended to keep the Bureau from developing a central file on State law enforcement matters. I have no quarrel with that. In fact, I support the decentralization of files. But the broad language in message switching language tends to restrict our ability to improve our internal communications network. I hope we can work that out. That was a buzz word 4 years ago when I came down here. I still have trouble understanding why message switching itself as distinguished from retention of a file should be so obnoxious. But given that it is, we hope that the Congress doesn't intend to impair our ability to improve our internal communications system if we are not collecting any information in the process.

LIBYAN HIT SQUAD

Senator WEICKER. I don't know whether or not you want to respond to the next question in an executive session, but I have been waiting for our opportunity to get to ask it. I really sat back and watched with incredulity, I suppose with the rest of the Nation—I am sure the rest of the American public did—in what I would call the Libyan hit squad incident. That was a pretty strange way to present the matter, as we sat there watching it on our television sets.

But be that as it may, is that something you would like to comment on in executive session?

Mr. WEBSTER. I prefer to comment more fully in executive session.

Senator WEICKER. I don't understand how something like—first of all, I assume the fact—it is a tough thing to say, but I assume the fact there is a whole bunch of people out there that would probably like to nail the President, Senators, Congressmen, and everybody else. That is just a given. You, also. That is just a given. Nevertheless, if there was something specific like that, I don't think, at least my knowledge of law enforcement, you don't sort of progress with it on your local television station every night.

Mr. WEBSTER. I agree. I am sure the chairman realizes what that did in terms of generating a lot of spurious information, all of which had to be run down.

Senator WEICKER. Yes.

Mr. WEBSTER. It served no purpose. I did the best I could to decline the invitation to hype it because we just said it would ruin our job.

At the same time, I think it had to be acknowledged that we were doing what we were expected to do, that you had to take any allegation, whether it came from this country or came from abroad, and you had to take it seriously, to the extent of trying to determine its truth or nontruth. The protective services had to take appropriate measures against the probability, or the possibility—somewhere in between the possibility or probability—that these activities were taking place.

There have been in that particularly confused area a lot of things that have been going on for a number of years, without the best information, focus, on what it all added up to, and we have been trying very hard with other agencies to get as firm a handle on it as possible.

It was a situation that I am glad we passed through. But it sort of had a life of its own out in the public domain. We were having trouble——

Senator WEICKER. Was it much ado about nothing or was it a valid matter?

Mr. WEBSTER. It is hard to make a public statement on that. I think I can say this, that there was certainly information of a more generalized nature that caused us to take the threat seriously. We received a lot of specific information of varying degrees of reliability or provability. This was coming from a wide range of agency information, including some of our own information. It was not the kind of thing that belonged in the public domain. The President was unhappy about it. We were all unhappy about it. But there it was.

We have tried to ask ourselves how that could happen, and I have no real answer for you. Any kind of information that is put out in the public domain is put out there by people.

Senator WEICKER. I think probably this is one of the matters that we would like to go into in some depth, so just be prepared when we have our executive session to give us a full briefing on it.

Mr. WEBSTER. I would be happy to.

ASSISTANCE TO THE VIRGIN ISLANDS

Senator WEICKER. One last point. There will be some other questions I will have submitted for the record.

What is the situation vis-a-vis your assistance to law enforcement in the Virgin Islands, more specifically St. Croix, which, unfortunately, had another flare-up or incident? Is the agency still assisting local law enforcement in that area? Has local law enforcement availed themselves of additional FBI training, et cetera?

Mr. WEBSTER. We just started in 1980, when they were in a similar situation and I sent down a task force. First I had the situation surveyed and then I sent a task force down for several weeks, during which time several murders were solved, but our jurisdiction was predicated on civil rights investigations.

As a result of that, I increased the agent participation in the islands; the agents that are based in San Juan, Puerto Rico. We opened up more training at the national academy. In fact, I am told that the police of the Virgin Islands have perhaps the highest percentage of national academy graduates of any of the law enforcement services that we serve.

The special agent in charge of our San Juan office recently conducted an inspection of the islands and came back putting in place, I think within a week or two, a course in behavioral sciences which is very useful in profiling and identifying types of people, This is similar to that utilized in the Atlanta murder case. I have authorized a 4-week school to be conducted in June in a place somewhere in the islands.

We will continue to provide opportunities to increase their training, which is essentially our responsibility. These are local crimes which should be handled locally by competent police officers. We want to do everything we can to keep their competency up. I think that is our main function.

Senator WEICKER. I would appreciate it if you would take a look at the matter and indeed initiate inquiry as to if there is any further assistance that the Bureau can give, in the sense that the economy rises or falls on a service business.

Mr. WEBSTER. Sure.

Senator WEICKER. If that, or perceptions of law enforcement are suffering, then I think that one probable assistance we can offer, in the positive sense, is to offer the type of training which I know you have done in the past. I think it is probably something that should be pursued again. Unfortunately, the situation there is absolutely no worse than it is in Washington, or New York City, or Hartford, Conn., but for some reason or other people pack their bags and figure they leave crime behind and that is the end of it. Would that the world were that simple.

Mr. WEBSTER. There are some other problems down there that perhaps I can save for the executive session, too, that go beyond the law enforcement functions.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. All right. Thank you. We will schedule that session. Thank you all very much. We will arrange a date in the next few weeks.

Mr. WEBSTER. Thank you, Mr. Chairman.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

Fingerprint Identification

You have a backlog in fingerprint indentification requests. As a result, extraordinary action was taken to suspend processing state regulatory agency requests. Yet, the budget reflects a reduction of 287 positions in fingerprint identification. Was funding requested for these positions in your requests to the Department and OMB?

Only 200 of the 287 reduced positions relate to the Fingerprint Identification Program. The FBI's requests to the Department of Justice and Office of Management and Budget did include funding for the 200 positions.

In addition to the funded positions requested for FY 1983, 588 reimbursable (unfunded) positions (571 workyears) have been requested which will provide the additional manpower needed for the FBI to reinstate the services suspended during FY 1982.

FBI/DEA Relationship

In assigning the FBI investigative jurisdiction of drug offenses, it was also announced that cross-training and agent rotation programs are to be initiated. Could you explain what is intended here? Will mandatory transfers be involved?

In response to your inquiry concerning cross-training, the Bureau, in cooperation with the DEA, has designed a comprehensive orientation and cross-training program to address the combined narcotics investigative responsibilities of the FBI and DEA.

Our objectives are the orientation and cross-training of both FBI and DEA personnel; FBI training assistance to enhance the investigative, managerial, and training capabilities of DEA, and the FBI's support of DEA's training of local law enforcement officials through the FBI National Academy Program.

Some examples of the aforementioned would be an eighteen-hour DEA enforcement orientation program for all FBI agent personel, a detailed four week course of instruction of selected FBI personnel, orientation training for DEA personnel relative to Title 18 and major FBI jurisdictional matters, policies and procedures, and advanced financial investigative schools for DEA management and investigative personnel.

Regarding mandatory transfers associated with these new cooperative efforts, the Bureau has no such plans for FBI personnel.

Questions Submitted by Senator Ernest F. Hollings

Given the increasing crime rate in recent years which you have reported, the Attorney General's emphasis on violent crime, the influx of Russian and other foreign agents, and your new role in drug enforcement, why do you project a real decrease in resources for 1983?

The reduction of positions in FY 1983 relates to positions for which there was no funding available. Had these positions remained in our budget, they could not have been filled. As a consequence, with reference to actual agents doing investigative work, the reduction in positions will not result in fewer agents conducting investigations in FY 1983 than are doing so now.

Does this mean that resources will be diverted from other areas, including the three top priorities -- white collar crime, organized crime, and foreign counterintelligence -- to meet your new responsibilities?

No real decrease in investigative manpower available for these three top priority investigative programs is represented in the FY 1983 request. There is a stated decrease of 95 agent positions in the white collar crime program, but these positions are unfunded and unfilled in FY 1982.

As a practical matter, the FBI will handle its increased responsibilities by giving increased emphasis to the higher priority drug enforcement work, while raising the cut-off point for other responsibilities which are considered to be of lesser priority. Also, certain economies of scale are expected to be realized because our new responsibilities should dovetail with the FBI's existing organized crime program to a certain degree. We are continuing to analyze resource requirements incidental to our new responsibilities in the area of drug enforcement.

What has the Bureau done to respond to the Attorney General's emphasis on violent crime besides changing the priority case indicator to include incidents where the use of weapons was threatened?

The FBI has taken the initiative in two important areas to carry out the Attorney General's directive; specifically, in September, 1981, the Special Agents in Charge of each of our field offices were instructed to strengthen their liaison with state and local authorities and aggressively solicit unlawful flight to avoid prosecution (UFAP) cases involving violent offenders. This effort had almost immediate results as shown by the 50 percent increase in new cases opened during the first four months of FY 1982. If the current rate continues, we will open a total of approximately 4,100 new UFAP cases as compared to approximately 2,700 in FY 1981.

Also in September, 1981, the FBI assumed responsibility to locate and apprehend approximatley 300 Drug Enforcement Administration (DEA) Class I and Class II fugitives. These fugitives are described as DEA's most serious offenders and represent approximately ten percent of all DEA fugitives. DEA is referring additional fugitive cases to the FBI at a rate of approximately 20 per month.

What else can be done?

With our commitment to utilize the Fugitive Program to attack violent crime through assisting state and local authorities, and by assuming a portion of DEA's fugitive workload, we project that approximately 1,800 such fugitives will be apprehended or located in FY 1982. This represents a significant improvement in the results which have been achieved in this program during the previous year.

What will this cost?

At the present time the cost of any increased involvement in this area is unknown inasmuch as the full extent of such increased involvement has not yet been decided upon.

The justification for the decrease of 408 positions is that 395 of them "are unfilled and unfunded." For 1982 the Bureau originally requested $739,013,000 which the President reduced by six percent in September to $694,000,000. How can these positions be unfunded when Congress gave you more than your original estimate for 1982?

President Carter's request to the Congress for FY 1982 was in the amount of $743,566,000. This was reduced by $4,554,000 in an amendment proposed by the Reagan Administration. The Congress rejected a proposed further reduction of six percent in September and added $596,000 to the pending request. Public Law 97-92, approved December 15, 1981, provides for operating through March 31, 1982, at a level of $739,609,000. This amount, however, does not include funds for uncontrollable increases which have occurred since the original request was submitted. These increases amount to $5,976,000. Further absorptions include a portion of the pay raise funds, in the amount of $3,455,000. In the absence of funding, the FBI must absorb these increases by not hiring personnel or by authorizing additional overtime to support employees, thereby diverting funds from other intended purposes. This, of course, results in unfilled positions. The FBI has recently undertaken steps to resume hiring so that it may be able to utilize more fully the total workyear effort included in the 1982 Budget.

How confident can we be that the 1983 budget can support 19,048 full-time permanent positions?

The 1983 budget includes a request for 19,048 full-time permanent positions and 18,578 total workyears, of which 206 are associated with other than full-time permanent employment. This assumes a lapse of 676 positions, which reflects a rate consistent with prior year experience. Barring any absorption of major increases in uncontrollable and pay raise items, the FBI should be able to support this level of work effort in FY 1983.

Staff Foreign Counterintelligence

How did the freeze on hiring during calendar year 1981 affect the FBI's programs; for instance, am I correct that we will have a significant shortfall in Foreign Counterintelligence?

On an overall basis, the FBI was able to hire 103 special agents during FY 1981, while a total of 277 agents separated during the same period, resulting in a net loss of 174 special agents who were available for investigative assignments.

This reduction affected virtually all investigative programs of the FBI, although individual programs realized larger proportionate reductions than others depending on specific workloads encountered, and the severity of overall criminal and security problems encountered.

Regarding the FBI's foreign counterintelligence program, I am sure you will appreciate the fact that information regarding this program's resource consumption is classified and would have to be discussed in a closed session.

Terrorism

The Director has cited recent significant increases in the number of terrorist events in this country (up 50 percent, 29 to 42, from 1980 to 1981); if the number of incidents is increasing, why do you anticipate no increase in terrorism resources for 1983?

The FBI Terrorism Program consists of domestic and foreign counterintelligence responsibilities. The domestic aspect of our program is directed against terrorist groups or individuals in the United States involved in terrorist activity indigenous to this country. The foreign counterintelligence aspect of our program is directed against foreign-based or influenced groups or individuals in the United States who are involved in international terrorist activity.

During the past two fiscal years, there has been a significant increase in the number of FBI agents assigned to international terrorism investigations. The number of agents budgeted for domestic terrorism investigations has decreased during the past two fiscal years.

Although there was a declining trend in terrorist incidents in the United States between 1977 and 1980, there was an increase in 1981. There were 111 incidents in 1977, 69 in 1978, 52 in 1979, and 29 in 1980. The FBI believes that although the number of terrorist incidents increased to 42 in 1981, the domestic portion of the FBI Terrorism Program continues to be addressed adequately without an increase in budgeted resoures. The international portion of our Terrorism Program has requested an increase in budgeted resources. We are continually reviewing the need for resources in both portions of our Terrorism Program.

How would you compare the type and severity of recent terrorist incidents with others in prior years?

Between the years 1977 and 1980, the number of claimed terrorist incidents in the United States decreased from 111 to 29. In 1981, this number increased to 42. This decrease in the numerical count of incidents does not reflect a decrease in severity. As is apparent by the recent assassination of the Turkish diplomatic official in California and the January, 1981 bombing of aircraft on the island of Puerto Rico, which caused $50 million dollars in damage, the terrorist groups active in the United States appear to be more willing to take human life and cause extreme property damage than they did in the past.

The FBI has recently completed a summary of claimed terrorist incidents in the United States in 1981. This summary also includes statistical analysis of terrorist incidents in the United States during the last five years. A copy of this report will be provided to the Committee.

Does the Bureau have a program to assess the risk or vulnerability of potential United States terrorist targets? How does the Bureau forecast the number of terrorist incidents anticipated each year?

The FBI does not have a formalized program specifically tasked to survey potential terrorists targets in the United States and assess the risk or vulnerability of the potential target. What it does have is contingency plans in each of its field offices that are prepared to react to an incident in its territory. In the preparation of such contingency plans, potential targets would be located and some specifics would be recorded concerning the potential targets.

The only prediction of terrorist incidents that is done by the FBI at this time is for budget purposes. These figures are derived by comparing the number of incidents in the last few years, the number of active groups, their propensity for violent action and then making a projection based on these comparisons.

How does the FBI plan to coordinate its intelligence and investigative activities with the CIA's new responsibilities for investigating international groups within the United States?

While it is true that Executive Order 12333 removes the prohibition of Executive Order 12036 against CIA and other agencies undertaking activities which would influence an organization or its members in the United States through undisclosed participation, this expanded technique is not viewed as a new responsibility if this ability of CIA is limited to organizations composed primarily of persons who are not U.S. persons and which are reasonably believed to be acting on behalf of a foreign power.

Should a group of interest to the CIA meet this rather narrow criteria, the authority to influence the organization has two other prerequisites: it must be done in accordance with procedures approved by the Attorney General, and coordinated with the FBI.

The various intelligence agency procedures are currently under review but they will continue to spell out the standards for approval of such activities. The agreements between the FBI and CIA require the CIA to present its proposals in advance to the FBI with the caveat that if agreement cannot be reached with regard to the proposal, the activity may not be undertaken until the issue is resolved.

The FBI intends to continue to exercise its responsibility to coordinate the foreign intelligence collection and counterintelligence activities of other intelligence agencies within the United States in accordance with the above.

What other law enforcement agencies are likely to be called upon for assistance or have been involved in investigating terrorist incidents? How does the Bureau expect the resources available for terrorism control to increase at any of these agencies?

The FBI, in its role as the United States Government's "lead agency" to combat terrorism in the United States has continuous and excellent cooperation with the other federal, state, and local agencies involved in the effort to counter terrorist activity.

As you are aware, the FBI's jurisdiction and purview concerning terrorism is within the continental United States, Alaska, Hawaii, and Puerto Rico. Because many of the terrorist groups active in the United States are international in scope, it is imperative that the FBI work very closely with other government entities such as the United States Department of State (USDS), Central Intelligence Agency (CIA), National Security Agency, and various military intelligence organizations that collect intelligence on the international scene.

The government agencies with which the FBI coordinates its effort to prevent or react to terrorist activities are the Department of Justice, USDS, United States Customs Service, Federal Emergency Management Agency, CIA, the various military intelligence organizations and numerous state and local agencies involved in investigating terrorist acts.

The FBI cannot comment specifically on the budgeted resources of other agencies; however, available resources for terrorism control will no doubt not be increased dramatically government-wide, based on general budgetary restraints.

White Collar Crime

The White Collar crime program is being reduced by 95 agent work-years. This reduction is being absorbed by curtailing investigations involving small sums. The workload measures for this activity indicate the reduced staff should be able to keep up with the workload. However, why are the number of convictions forecast to be 20 percent lower than the actual number in 1981?

The FBI has found that crimes involving small sums of money in the white collar crime area do not necessarily result in protracted litigation. Individuals charged in these minor crimes, for the most part, either voluntarily enter a pre-trial diversion program or by agreement plead guilty and enter a probation program. A reduction of manpower from these matters results in a disproportionate reduction in convictions. The matters not investigated by the FBI will be referred, whenever possible, to state and local authorities.

Can some of the decrease in resources devoted to White Collar Crime be offset by increased fraud against the government criminal investigations by the Offices of Inspector General investigators? If so, how much?

No, a reduction in resources devoted to the White Collar Crime program will not occur as a result of an increase in the volume of investigations by the Offices of Inspector General, over the long term.

It is expected that Inspectors General will increase audit vigilance over programs and grants found to have weak internal controls and perform routine audit review of programs and grants that have not previously been afforded review.

The FBI is of the opinion that during the past three-and-one-half (3 1/2) years, since passage of Public Law 95-452, the Inspectors

General Act of 1978, the Offices of Inspector General are detecting a considerable amount of fraud and other questionable activity. Their respective investigative staffs are fully occupied since, as you know, fraud investigations are invariably complex and time consuming. The Offices of Inspector General will of necessity be looking to the FBI for assistance in investigating the frauds being detected. FBI first quarter statistics for the fiscal year beginning October 1, 1981, show a significant increase in governmental fraud investigations and this trend is expected to continue.

Antitrust and Civil Matters

How much time did the FBI spend on antitrust and civil investigations in 1981, and how does it compare to 1980? Please give us some examples of the cases in this area that the Bureau was involved in during 1981.

A total of 45 agent workyears were expended on antitrust and civil matters during FY 1981, and 53 agent workyears were expended during FY 1980. The fluctuation of manpower utilized in this program occurs due to the fact that the FBI conducts only the investigation specifically requested. These requests are received from both the Antitrust Division of the Justice Department and the Civil Division of the Justice Department, as well as any of the 95 U.S. Attorneys' Offices throughout the United States. In many instances the Attorneys themselves conduct investigations in support of the litigation in which they themselves expect to participate.

An example of a case category in 1981 involved highway construction or "bid-rigging" investigations throughout the country. The overall result of such investigations has been the conviction of more than 100 individuals throughout the southern portion of the United States. At one time, more than ten FBI field divisions were conducting investigations; however, the level of involvement in the investigations has varied. In such states as Tennessee and Kansas, the FBI conducted and is continuing to conduct a large number of the investigations, but in Virginia and Texas the FBI involvement is somewhat less. In each of these states and others, the FBI stands ready to conduct all of the necessary investigations.

What accounts for the 25 percent increase over the 1981 level projected in 1983 for antitrust and civil matters?

The FBI considers the reduction in manpower devoted to the antitrust and civil matters program during FY 1981 to have been unusual. The reduction appears to have occurred due to the Antitrust Division's decisions to utilize their own attorneys to conduct much of the investigative work in the highway building cases, and in Texas utilizing investigators from the Office of the Inspector General, Department of Transportation.

The Antitrust Division in FY 1983 is expected to request the FBI's assistance with the frequency of past years. In addition, it is anticipated that with increases in civil sanctions, in addressing fraud waste and abuse in government, the FBI will undertake additional investigative assignments in 1983.

Legal Attaches

A total of 57 positions are budgeted for the legal attache stations at 13 overseas posts consisting of 30 special agents and 27 support personnel:

Are the support personnel foreign nationals?

No foreign nationals are employed as support personnel in Legal Attache Offices for the obvious reason of security.

According to the justification, there is almost a 1:1 ratio between special agents and support personnel at most of the overseas posts. What is the ratio of special agents to support personnel generally in the Bureau, and why are there so many support personnel to the special agents overseas?

Bureauwide, the ratio of special agents to support personnel is 1 to 1.4 and in the field it is 1 to .6. The ratio in our legal attache offices is 1 to .9. The higher ratio is necessary because many of these offices have only one or two agents who travel throughout various countries. The support personnel are necessary in order to provide coverage while the special agents are out of the Office and perform the many clerical functions necessary for the smooth operation of the office. Support staffing is continually reviewed and maintained at the minimum necessary for mission accomplishment.

Recoveries

In 1981, recoveries under General Government Crimes were up almost $1,300,111 over 1980. Why are they projected to fall back in 1982 and 1983?

The increase of recoveries in the General Government Crimes Program from FY 1980 to FY 1981 was primarily in the Firearms Act, Theft of Government Property, and Crime on Government Reservation areas. We considered FY 1981 to be an exceptional year and projected only a slight increase for FY 1982 and FY 1983 over FY 1980 consistent with actual operations prior to FY 1980. Part of the increase in FY 1981 was the result of a successful undercover operation.

Your description of "Operation Greenthumb" in your statement sounds like the "sting" programs that LEAA has funded in other cities. LEAA funding has been depleted. How many undercover property recovery programs are the FBI operating and where have they been located?

"Greenthumb" was an undercover operation initiated during October, 1980, in Washington, D.C., in conjunction with the Metropolitan Police that resulted in the recovery of property valued at approximately $2 million, the arrests of 22 individuals, and the solution of over 200 burglaries. This operation was not the traditional "sting" project of buying stolen property similar to those LEAA has funded but involved two FBI undercover agents representing themselves as burglars. They infiltrated the circle of targeted subjects; namely, fences of stolen precious metals and their associ-

ates who cloaked these illegal activities with legitimate second-hand businesses. In unison with this infiltration, extensive surveillances were conducted which led to the obtaining of courtordered pen register coverage and, eventually, court-ordered microphone and telephone installations.

During FY 1979, 1980, and 1981, the FBI operated 30, 35 and 27 long-term operations, respectively, in the Property Crimes Program across the country. At the present time, the General Property Crimes Program, pursuant to the Attorney General Guidelines, has 15 long-term projects in operation. They are located in varied cross sections of the United States, in the Northwest, the Midwest, the Southeast, the Southwest, and the West. In addition, the FBI is still involved in one LEAA-funded project on the West Coast which is due to expire in a short time if no additional funding is forthcoming.

These long-term operations, in addition to combating the traditional property crime problems of vehicle, heavy equipment, precious metal, and cargo thefts, also address major theft problems in the airline, oil, and computer industries involving the loss of high technology with possible national security implications.

The General Property Crimes Program was involved in 44 Group II short duration, buy-bust undercover operations in FY 1979. In FY 1980, this figure increased to 102 and by FY 1981 the number of such operations totalled 163.

Questions Submitted by Senator Dennis DeConcini

Narcotics and Violent Crime Investigations

Your statement notes that "The FY 1983 budget includes no request for program enhancement and, in fact, represents 408 fewer positions than appropriated in FY 1982." It later says that the "FBI will continue to emphasize its investigative programs directed against Foreign Counterintelligence, Organized Crime and White Collar Crime. In addition, we will be placing investigative emphasis on violent crimes within our jurisdiction and we will be working more closely with the Drug Enforcement Administration on drug matters." In other words, the FBI proposes to:

Maintain existing levels of effort in your current program;

Add substantial new responsibilities in two very important areas; and

Cut resources below FY 1981.

How many workyears do you anticipate shifting to narcotics and violent crimes investigations? How many case filings and closures do you expect in these areas?

The FBI, in conjunction with DEA, has developed a training program which will facilitate the training of 288 special agents in narcotics matters by the end of FY 1982. These special agents will be utilized to investigate narcotics violations. Additional agents

will be trained and utilized in narcotics investigations as experience dictates.

Currently, the FBI has approximately 400 narcotics investigations pending and opens approximately 50 additional cases relative to narcotics investigations each week. Of the 400 cases identified above, approximately 150 are joint FBI/DEA investigations. Inasmuch as the FBI has only recently received concurrent jurisdiction with DEA relative to narcotics investigations, it is not possible to anticipate in any reliable manner the number of cases to be closed.

As for our violent crimes investigations, we estimate that an additional 153 agents will be utilized in FY 1983. This includes those agents who will be assigned to the location of the dangerous narcotic violators. It is estimated that approximately 4,100 new unlawful flight to avoid prosecution cases will be opened and that, during FY 1983, 1800 of those fugitives will be apprehended.

Questions Submitted by Senator Lawton Chiles

Justice Department Coordination with Other Government Agencies

In your prepared statement, you outlined the new cooperative efforts now being undertaken by the FBI and the DEA in the drug enforcement area. Other agencies not within the Justice Department -- Internal Revenue Service, Customs Service, the Coast Guard, and now, the military -- also play a role in enforcement of federal drug laws.

What mechanisms have been established to coordinate efforts between the Justice Department agencies and these other agencies?

The primary coordinative mechanism involving the diverse agencies cited in the question is an interagency task force designated by the President in January. Under the auspices of the Vice President's Office, an on-site coordinator, Charles Rinkevich, has been assigned to the Florida-based effort and steps are well underway to significantly increase the levels of cooperation among the federal agencies (FBI, DEA, Customs Service, etc.) and between these organizations and the local law enforcement community as well.

Fingerprint Identification

In your prepared statement, you expressed concern with the suspension of portions of the FBI's Fingerprint Identification Program during FY 1982. The suspending parts of the program are scheduled to be reinstated, with a user fee, on October 1st. What is the status of the FBI's efforts to train the personnel who will begin handling requests on October 1st?

Are the training funds presently available in the FY 1982 budget sufficient to assure that enough trained personnel will be in place on October 1st to handle the requests which will begin to come in under the reinstated part of the program without delays in processing? What will be the anticipated turn-around time for these

"user fee" requests? Would additional FY 1982 funds, earmarked for training, be useful in assuring a smooth reinstatement of the program? If so, what level of additional funding would be needed to assure a smooth reinstatement?

Regarding that portion of your question pertaining to additional 1982 funds perhaps being earmarked to reinstate these particular services, we are, of course, not in a position to encourage that type of resource augmentation. The President has clearly expressed his determination to restrain government spending, and both the 1982 and 1983 budget requests of the Department of Justice are consistent with that policy. Our own pending request, specifically as it relates to the Fingerprint Identification program, is premised on the above-referenced suspension of these selected processing requests. This is a temporary measure only and it certainly will permit us to concentrate our full attention on reducing the intolerable backlog of fingerprint cards that were slowing down basic criminal justice functions.

U.S. ATTORNEYS

STATEMENT OF WILLIAM P. TYSON, DIRECTOR, EXECUTIVE OFFICE FOR U.S. ATTORNEYS

ACCOMPANIED BY:

FRANCIS X. MALLGRAVE, ASSISTANT DIRECTOR FOR ADMINISTRATIVE SERVICES

KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION

CHARLES R. NEILL, CONTROLLER

JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF

PREPARED STATEMENT

Senator WEICKER. Our next request is that of the U.S. attorneys and marshals appropriation and the support of U.S. prisoners appropriation. The amount requested for the U.S. attorneys and marshals is $320,945,000 and 6,334 positions, a decrease of $6,532,000 and 197 positions from the 1983 base. The amount requested for the support of U.S. prisoners is $30,704,000, an increase of $2,694,000 from the 1983 base.

Appearing on behalf of the U.S. attorneys is William P. Tyson, Director, Executive Office for U.S. Attorneys, who is accompanied by Kevin Rooney and Charles Neill.

Senator WEICKER. Why don't we then proceed, Mr. Tyson, and hear your statement.

Mr. TYSON. Thank you, Mr. Chairman. With your permission, I will summarize my statement and just enter it in the record at this point.

Senator WEICKER. Fine.

[The statement follows:]

STATEMENT OF WILLIAM P. TYSON

I am pleased to have the opportunity to appear before you on behalf of the 1983 request for the U.S. Attorneys, U.S. Trustees and the U.S. Marshals. The total request is for $320,945,000 and 6,334 positions, a net increase of $24,995,000. Included in the request are decreases due to program changes which amount to $6,532,000 and 186 positions less than the amounts anticipated in 1982. The program changes include reductions of $5,503,000 and 147 positions resulting from the termination of the U.S. Trustees program and $1,029,000 and 50 positions resulting from changes in the responsibility of the U.S. Marshals Service to execute private process. The 1983 request for the U.S. Attorneys is $210,225,000 and 4,316 positions; for the U.S. Trustees, the Department is requesting termination of the program; and, for the U.S. Marshals Service, $110,720,000 and 2,018 positions.

My role today will be to present the portion of the request which pertains to the U.S. Attorneys. Mr. William E. Hall, Director, United States Marshals Service, will appear on behalf of the Marshals Service and the Support of U.S. Prisoners appropriation.

The U.S. Attorneys' request provides for the prosecution of federal criminal offenses and the conduct of the government's civil litigation in the 95 federal judicial districts. An appropriation of $210,225,000 and 4,316 positions is requested for the U.S. Attorneys—an increase of $24,300,000 from the appropriation anticipated in 1982. The increase consists mainly of uncontrollable cost increases totaling $23,783,000. The remainder of the increase results from the transfer of 11 positions and $517,000 from the Criminal Division's Economic Crime Unit for the criminal litigation program. No program increases are requested for 1983.

I would like to take this opportunity to report to the Subcommittee on three aspects of the U.S. Attorneys' activities which will demonstrate the direction we are going with the existing resource levels. Although each of these activities directly involves only a

relatively small proportion of the overall budget, each one serves as a focal point for the most important priorities of the U.S. Attorneys.

With respect to the enforcement of criminal laws, the U.S. Attorneys have been assigned the principal responsibility for organizing Law Enforcement Coordinating Committees. Recognizing that violent crime is the foremost law enforcement concern of the American public and that the responsibility for the punishment and the deterrence of violent crime falls primarily upon state and local governments, the U.S. Attorneys have been directed to take the initiative in pulling together the various law enforcement agencies operating in each locality and cooperatively developing a coordinated law enforcement effort. The process of organizing Law Enforcement Coordinating Committees is well underway and at least one meeting has been held in a majority of the 95 federal districts.

Department of Justice law enforcement components are being requested to be as supportive as possible of state and local agencies, and this effort is expected to produce a maximum overall governmental response to violent crime in each district.

A second activity on which the U.S. Attorneys are currently concentrating, and will continue to concentrate in 1983, is the collection of debts owed to the Federal Government. A recent study by the Office of Management and Budget has estimated that more than $25 billion in debts owed to the government are either delinquent or in default. When an agency is unable to collect its debts through administrative procedure, the debts are referred to the U.S. Attorneys for appropriate legal remedies. Because of the attention this problem has received in recent years, the U.S. Attorneys have been deluged with referrals from executive agencies. The Executive Office for U.S. Attorneys is now engaged in an intensive effort to upgrade the capacity of the U.S. Attorneys to handle collection cases. By improving supervision, by offering practical training to collections personnel, by adopting more efficient management techniques, and by using advanced

technology to process records and produce correspondence and documents, the U.S. Attorneys will increase the level of revenue eventually realized by the Treasury from delinquent or defaulted debts.

Finally, a long standing effort by the U.S. Attorneys to develop a modern caseload management information system will continue to advance in 1983 without any increase in funding. A minicomputer version of Prosecutors Management Information System (PROMIS) has been successfully installed in two pilot districts and this system is expected to be extended to approximately ten more sites by the end of 1983. A version of PROMIS using word processing equipment is now operational in two districts and the system is expected to be extended to approximately 20 sites in 1983. Eventually, the nationwide implementation of this system will serve the dual purpose of supporting the day-to-day management of each district's caseload and providing the Department of Justice generally with more comprehensive and more timely information regarding the cases which are being conducted by the U.S. Attorneys.

I will be glad to respond, Mr. Chairman, at this time to any questions you or other members of the Subcommittee may have.

BUDGET REQUEST

Mr. TYSON. As always, it is a pleasure to appear before the committee in support of the request. This year, as the chairman indicated, the fiscal year 1983 request for U.S. attorneys, U.S. trustees, and U.S. marshals totals $320,945,000 and 6,334 positions, a net increase of $24,995,000. This includes a decrease due to certain program changes in the amount of $6,532,000 and 186 positions below the amounts anticipated in fiscal year 1982.

The program changes include a reduction of $5,503,000 and 147 positions resulting from a termination of the U.S. trustees program and a reduction of $1,029,000 and 50 positions in U.S. marshals due to changes in responsibility to execute private process. I will be followed by Mr. William Hall who will explain their portion of the request.

The U.S. attorneys portion of the request is for $210,225,000 and 4,316 positions. This is an increase of $24,300,000 over fiscal year 1982, mostly due to increases in uncontrollable costs, which total $23,783,000 as an increase. The remainder, $517,000, is to support 11 positions transferred to the U.S. attorneys from the Criminal Division's Economic Crime Unit. No increases are requested for fiscal year 1983. Briefly I will explain what we do with the requested resources.

As to criminal law enforcement, U.S. attorneys, as you know, prosecute Federal crimes and advise the Federal investigative agencies in what will soon be 94 Federal districts. One is going to be closed down at the end of this month.

LAW ENFORCEMENT COORDINATING COMMITTEES

The executive office exercises the principal responsibility for insuring that U.S. attorneys organize law enforcement coordinating committees in each district. This new activity is a key recommendation of the Attorney General's Task Force on Violent Crime and the centerpiece of the Attorney General's crime control program. Some 50 committees have been formed as of this date. New committees are coming on line each week as the new U.S. attorney gets geared up.

The purpose of the committees is to combine more effectively Federal and State resources in fighting that roughly 90 percent of criminal activity reported to Federal agencies, which is concurrent jurisdiction crime. These cases could be tried in either State or Federal jurisdictions, and it is our purpose to assist the State and local authorities better through training, information sharing, prisoner housing, handling of joint trials and investigations, and some other matters.

CIVIL LITIGATION

As to civil litigation, the other side of what we do, U.S. attorneys fulfill the traditional role of representing the U.S. Government and its employees in appropriate cases. U.S. attorneys conduct cases initiated by the Government and cases brought against the Government, serving as counsel for plaintiff or defendant, depending upon the Government's role in a particular case.

A special subpart of the civil litigation activity is the debt collection program, which is receiving increased emphasis by this administration. U.S. attorneys in my office, and other aspects of the Department, have instituted aggressive debt collection programs to collect an estimated $25 billion of debts owed or in default. Many are student loans from people who are quite able to pay, having now gotten well established in their professions and other activities.

We are providing equipment, training and advanced technology, and direct staff assistance in some instances to enhance the U.S. Government's ability to collect debts.

CASELOAD MANAGEMENT

Next, we are writing a contract very soon to install an automated caseload management system, long overdue admittedly, in all U.S. attorneys' offices over the next 2 years. This system will operate a minicomputer and word processing equipment version of the prosecutors' management information system, generally known as PROMIS. This system has been tested in many State and local district attorneys' offices, originally stemming from LEAA grants, and it has been tested in four Federal districts, two with minicomputers and two with word processing equipment—two large offices with minicomputers and two small offices with word processing equipment. During fiscal year 1983, 20 more sites will be on line, and during fiscal year 1984 the balance will come on line.

A key part of this system will be the debt collection subsystem, which will further enhance the U.S. attorneys' ability to collect debts. This subsystem will generate debt letters, compute interest in some instances, among other things. The system will provide U.S. attorneys with a caseload management system to manage their own caseloads and will provide the Department of Justice with data for budget requests, oversight, historical data, and the like.

Finally, this budget request, through my office, will support the Department's legal education program in the Office of Legal Education, which oversees the Attorney General's Advocacy Institute and the Legal Education Institute.

Mr. Chairman, that completes my remarks. I would be happy to respond to any questions you may have.

CONTINUING RESOLUTION BANKRUPTCY TRUSTEES EARMARKING

Senator WEICKER. In considering the continuing resolution, the House and Senate conferees determined that $4,730,000 should be available to continue the U.S. trustee program but that these funds should come from those amounts already designated for the U.S. attorneys and marshals. It is my understanding that the U.S. attorneys absorbed $3,065,000 of this cost. The justification indicates that restoration of these funds will increase the number of work-years available to the U.S. attorneys by 95.

Since we are not increasing permanent positions, what type position do you envision making available?

Mr. ROONEY. If I may respond, Mr. Chairman. We are talking about 95 work-years out of the total authorized strength that we have. Based on the estimated ratios of attorneys, paralegals, and support people, it would be a proportional split of that. It is just 95 work-years that would not be able to be funded. Ninety-five people can't be brought on board.

TERMINATION OF THE TRUSTEE PROGRAM

Senator WEICKER. Kevin, the Department is again requesting the termination of the bankruptcy trustee program. There are strong feelings over in the House especially in regard to that program.

When is the current program scheduled to terminate, and have you asked the Judiciary Committee to repeal the authorizing legislation?

Mr. ROONEY. There is no provision for it in our authorization proposal for 1982 or 1983. The program is scheduled to terminate in 1984 under the act.

We will do an evaluation by that time. We have nothing in this budget, so under the administration's proposal it would terminate this year, September 30, 1982.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. If I have any further questions, I will submit them for the record on the U.S. attorneys. Thank you very much, Mr. Tyson.

Mr. TYSON. Thank you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

Training Classes

The justification indicates that the number of students in advocacy skills classes will double from 616 in 1981 to 1,250 in 1982 and to 1,360 in 1983. Are all advocacy classes conducted in Washington?

Most of the advocacy skills courses are conducted in Washington because of the special use of video equipment in those courses. The Department of Justice has four classrooms arranged as courtrooms, with built-in video cameras for videotaping the exercises and trials conducted by the student attorneys. There are also four built-in playback units and two mobile units, which are used for the review of the performances with instructors. These are also used for individual review by the students without an instructor, both during the course and on their own time. Most of each course is spent in small groups in which the student attorneys conduct exercises, examine and cross-examine witnesses and demonstrate evidence. The exercises and full trials before visiting federal judges, are criticized by the instructors and judges and are taped for that purpose. The deliberations of the mock juries in the trial exercise are also recorded on videotape. Reviewing a tape of jury deliberations can be quite instructive in helping the student attorneys understand the effect of their performance on a jury. We have conducted one of the one-week courses for agency attorneys outside Washington, in order for regional attorneys in the West to attend without incurring heavy travel costs. However, even though we used facilities of a law school that were designated for this purpose, we incurred considerable expense for the use of such facilities and for the use of operators. Also, the facilities were of a makeshift nature in comparison to the facilities in Washington.

Is it not possible to make greater use of video tapes?

Although we do show both commercial and in-house videotapes on trial advocacy and evidence, a videotape of someone else's lecture or even performance is not a substitute for the performance and critique of the students. Watching a production about trial advocacy is, naturally, not the same as actually performing a trial exercise and receiving a critique of that performance. The performance and critique are the main distinguising features of the very successful trial and appellate advocacy skills courses offered by the Department. We do record lectures and panel discussions and are making greater use of these for showing in offices around the country in order to save travel costs for those courses that do not involve participation.

What is the average cost per student?

The funds included in the budget for legal education support a wide variety of programs and courses, not just advocacy courses. No attempt has been made to attribute general expenses to specific courses. The same staff and the same facilities are used to produce three separate advocacy skill courses and many specialized seminars. The assignment of general costs to individual courses would be very difficult.

The only direct costs which can be assigned to advocacy courses are the travel expenses of participants and the materials they consume. For a trial advocacy course, such direct costs would range from $100.00 for a student with no travel expenses to $1,900.00 for a student from the most distant location.

Case Tracking

Since the focus of criminal prosecutions has shifted to the more complex cases, does your office have any way of tracking how many cases a U.S. Attorney refers to local authorities and what the disposition of these matters is?

At the present time there is no systematic method employed by the Department of Justice to keep track of the disposition of matters declined by U.S. Attorneys in favor of prosecution by local authorities. As part of the Law Enforcement Coordinating Committee program, federal investigative agencies are being instructed to report to the U.S. Attorney on the action taken by local prosecutors regarding matters presented to them. A means, therefore, is now being established to collect information on the disposition of cases referred to state and local authorities.

Office Reviews

How many staff in the Executive Office for U.S. Attorneys are assigned to conduct on-site reviews of U.S. Attorneys' Offices?

Two attorneys and one secretary are assigned to the unit which is responsible for conducting on-site reviews of U.S. Attorneys offices and for supervising the evaluations which are conducted by Senior Assistant U.S. Attorneys.

What kind of training is provided to the Assistant U.S. Attorneys to assist in this function? Are formal guidelines and criteria provided? Are work-papers prepared and analyses conducted or are these visits based more on observation?

The Assistant U.S. Attorneys who conducted office evaluations last year received instruction at a conference held by the Executive Office for U.S. Attorneys. The purpose of the review, the procedure for collecting data, and the form of the report to be prepared were addressed in detail. A manual is being prepared by the Executive Office to guide future evaluators. Finally, a conference is planned for later this spring at which last year's experiment will be critiqued, the manual reviewed and a new group of Assistant U.S. Attorneys' introduced to the program.

Given the existence of Justice's Internal Audit Staff and Evaluation Staff, what involvement do these professionals have in examining U.S. Attorneys' operations and what reports have they issued on U.S. Attorneys' operations?

Consideration is being given to having the Internal Audit Staff conduct audits of certain administrative functions in the U.S. Attorneys' offices. The audits would cover such areas as employee

leave practices, the maintenance of property inventory records, the authorization of travel advances, the utilization of office space, the certification of vouchers, etc. The Executive Office reviews are mainly interested in evaluating the ability of each U.S. Attorney to conduct the litigation required of his office. Neither the Internal Audit Staff nor the Evaluation Staff possess the kind of experienced legal talent needed for this task.

Civil Litigation

How are the decisions to file or terminate cases made? Are these terminations similar to criminal declinations or are they settled thus avoiding the need to file in federal court?

Cases filed against the government, of course, may not be declined by the U.S. Attorney. Affirmative cases which are brought to the U.S. Attorney by executive agencies for the initiation of a civil suit may be declined. Such decisions are made on a case-by-case basis according to the evidence presented by the agency and the applicable law. The usual standard which is applied is the same standard that may be found in the Equal Access to Justice Act. Under this law, a party prevailing against the government in a civil lawsuit is entitled to attorney fees and expenses "unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust," (28 USC 2412 (d) (1)). Therefore, before accepting an agency's case, the U.S. Attorney should be convinced that the proposed litigation has a reasonable basis in both fact and law. In the event of a disagreement between the U.S. Attorney and the executive agency as to a compromise or closing of a specific case, the matter may be referred to the Civil Division in the Department of Justice for resolution.

If civil matters referred to Justice are declined, what recourse does the referring agency have? Who then, represents the referring agency?

By law (28 USC 519), the Attorney General has been assigned responsibility, "except as otherwise provided by law, to supervise all litigation to which the United States, an agency, or officer thereof is a party." If the agency is dissatisfied with the refusal of a U.S. Attorney to accept a specific piece of litigation, it may appeal to the Civil Division, and in turn to the Deputy Attorney General and Attorney General if it remains dissatisfied. However, if the Attorney General is not convinced that substantial justification for initiation of a lawsuit exists, the agency has no recourse outside the Department of Justice.

What policies and guidelines exist to guide U.S. Attorneys' Offices in settling/negotiating civil cases? Who reviews such settlements? Is concurrence required or sought from the interested federal agency?

The U.S. Attorneys' Manual generally sets forth guidelines for liaison with executive agencies in Title IV, Section 1.520. This section contains the following instruction: "Under no circumstances should a case be compromised or settled without advance consultation with a client agency, unless the agency has clearly indicated that some other procedure would be acceptable." The settlement authority

of various officials in the Department of Justice may be found in Title 28 of the Code of Federal Regulations, Subpart Y. Cases for which the U.S. Attorney possesses settlement authority are not reviewed by a superior authority within the Department of Justice unless the client agency disagrees with the settlement proposed by the U.S. Attorney.

What have Justice and the U.S. Attorneys done to encourage an increased use of attorneys from other agencies to handle civil litigation? How many agencies currently have the authority to handle some of their own litigation? How many have requested this authority and how many requests have been approved by Justice?

The U.S. Attorneys are using agency attorneys at an ever increasing rate to assist in the conduct of litigation. As of March 17, there were 350 Special Assistant U.S. Attorney appointments in effect for attorneys employed in the various federal executive agencies, including 180 for the Department of Defense. A year ago there were only 95 such appointments in effect including 60 for the Department of Defense. Although the attorneys remain on the payroll of their employing agency, as Special Assistant U.S. Attorneys, they are authorized to act as an agent of the Department of Justice, and they are subject to the supervision of the U.S. Attorney.

Regarding collections, does the $226,474,000 stated as 1981 collections refer to actual monies recovered by the Government? Approximately how many resources are devoted in a typical U.S. Attorney's Office to the collection effort?

The amount cited above represents money actually realized by the government from collections made by the U.S. Attorneys. Substantially more debts have been imposed and remain outstanding. In FY 1981, approximately 217 workyears and $4.9 million were devoted to U.S. Attorney collection efforts nationwide. The average expenditure on collections in a U.S. Attorney office would therefore be 2.3 workyears and $51,600.

Criminal Litigation

What is the status of the recommendation by the Task Force on Violent Crime to improve federal/state coordination and to improve the referral of concurrent jurisdiction crimes that are declined by U.S. Attorneys to local prosecutors?

This issue is central to the Law Enforcement Coordinating Committee programs which are being formulated in each of the 94 districts. Investigative agencies are being encouraged to report back to U.S. Attorneys on the action taken by local authorities on each case referred to them. In order to prevent offenses from "slipping through the cracks," U.S. Attorneys will be reconsidering the prosecution of any case which is declined by local authorities after first being declined by the U.S. Attorney. As it becomes necessary, declination policies will be reviewed at Coordinating Committee sessions and mutually agreeable policies derived.

One available alternative to federal prosecution is pretrail diversion. How extensively is it used by U.S. Attorneys, and what has

Justice done to ensure it is used by all U.S. Attorneys' Offices and consistently by Assistant U.S. Attorneys?

Procedures and guidelines for the use of pretrial diversion are contained in the U.S. Attorneys Manual Title 1, Chapter 12. The chapter includes a review of the history of pretrial diversion, the principles involved, eligibility criteria, and forms to be employed. Pretrial diversion is available in every district and the program has been designed to allow for the maximum flexibility in its application. Although the Department of Justice has established offenses for which pretrial diversion is an appropriate recourse, the application to a given offender depends upon the U.S. Attorney's evaluation of the alternative effects of a diversion contract versus the judicial process on that offender. Data on the use of pretrial diversion have only recently begun to be collected and no summary statistics are available at the present time.

What follow up has been conducted on the implementation by U.S. Attorneys of the Principles of Federal Prosecution which was published in 1980? What changes in operations have occurred?

The Principles of Federal Prosecution is treated in various courses offered by the Attorney General's Advocacy Institute, including its Grand Jury Seminar and its Federal Practice Seminar. In some districts, Assistant U.S. Attorneys are occasionally confronted with their adherence to the Principles of Federal Prosecution as a result of motions to dismiss presented by defense counsel. In reviewing the U.S. Attorney's decision to initiate prosecution, the court may require an Assistant U.S. Attorney to explain how the case complies with the Principles. Also Assistant U.S. Attorneys commonly refer to the Principles in correspondence which they may be required to prepare on declination decisions. No statistics on the number of motions to dismiss relying on the Principles or the number of references in declination memoranda are available.

Bankruptcy Matters

We understand that Justice has contracted with a consulting firm to evaluate the U.S. Trustee Pilot Program. What is the status, scope, and anticipated completion date of this effort?

The Department awarded a contract to Abt Associates of Cambridge, Massachusetts, in January 1982 to conduct the evaluation of the U.S. Trustee Program that was mandated by Congress under the Bankruptcy Reform Act. Abt's summary of its proposed evaluation effort is attached. Assuming that the evaluation process continues to conclusion, the results should be available in early 1983.

Is the fact that Justice is seeking to prematurely end this pilot program a conclusion that U.S. Trustees are not needed and that bankruptcies can be administered through the clerks' offices?

The level of supervision of bankruptcy case administration differs significantly between the pilot districts on the one hand and the non-pilot districts on the other. The pilot program was established by Congress in order to determine whether the heightened level of supervision found in the U.S. Trustee districts was desirable and cost effective. It is due to budgetary constraints that the Ad-

ministration has proposed removing the trustee program from the Department of Justice and transferring its functions to the judiciary.

What impact, monetary and operational, will the abandonment of the Trustee Program have on the Administrative Office for U.S. Courts and on the individual bankruptcy courts where the pilot program has been operating? Has this been coordinated with the Administrative Office? How?

The Administrative Office has included in its FY 1983 budget a contingency item in the amount of $1.4 million. This amount would cover thirty-nine professional bankruptcy estate administrator positions in the eighteen judicial districts that now comprise the trustee program, but does not provide for space, support staff, etc. The thirty-nine positions compare with forty-six professional positions in the ten U.S. Trustee offices under the $5 million budget and fifty-two such positions at the $6.5 million level (both of these figures include the U.S. Trustees and Assistant U.S. Trustees, as well as line attorneys and bankruptcy analysts).

There is close, regular coordination between the Executive Office for U.S. Trustees and the Administrative Office in this area and on all other matters of mutual concern.

U.S. Marshals Service

STATEMENT OF WILLIAM E. HALL, DIRECTOR

ACCOMPANIED BY:

HOWARD SAFIR, ASSISTANT DIRECTOR FOR OPERATIONS
GARY MEAD, ASSISTANT DIRECTOR FOR ADMINISTRATION
JAMES A. SHEALEY, COMPTROLLER
KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION
CHARLES R. NEILL, CONTROLLER
JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF

PREPARED STATEMENT

Senator WEICKER. We will move on to the U.S. marshals.

We have Mr. William Hall with us on behalf of the U.S. Marshals Service.

Mr. Hall, do you want to introduce your colleagues?

Mr. HALL. Good morning, Mr. Chairman. I have with me Mr. Safir, Assistant Director for Operations, and to my immediate left is Mr. Shealey, Comptroller of the Marshals Service.

Senator WEICKER. Your statement in its entirety will be placed in the record. You may proceed.

[The statement follows:]

STATEMENT OF WILLIAM E. HALL

I am pleased to have the opportunity to appear before the subcommittee today in support of the 1983 appropriation request for the U.S. Marshals Service. This request provides for 2,018 positions and $110,720,000 which is a net increase of $5,695,000 in funding and a decrease of 50 positions from the anticipated appropriation of 2,068 positions and $105,025,000 for 1982.

Included in this request is $10,724,000 for uncontrollable increases and a $4 million decrease for a nonrecurring 1982 supplemental request. This 1983 appropriation request provides for a program decrease of 50 positions and $1,029,000 in execution of process and court orders. no program increases are requested.

EXECUTION OF PROCESS AND COURT ORDERS

The reduction of 50 positions and $1,029,000 is a result of a joint effort of the administration, the Department, and the courts to encourage the use of private process servers as an alternative to Federal Government subsidy for private process which does not require the presence of a law enforcement officer. Private process firms should be able to meet much of this requirement, and upon enactment of the pending legislation in this area, user fees would be established by the Attorney General to directly fund actual cost for the service of private process and would reduce the burden on the taxpayers. As stated before, the Marshals Service will continue to provide the service of private process for indigents and when the presence of a law enforcement officer is required.

PROGRAM HIGHLIGHTS

Although no program increases are requested for 1983, the Marshals Service expects to expand upon the program achievements made to date. In the fugitive warrants program, the volume of outstanding cases was reduced by 36 percent. The most notable apprehension was Christoper John Boyce, escaped Federal prisoner convicted of espionage. Currently, the Service is conducting operation FIST (fugitive investigative strike team) in locations experiencing major criminal activity. The first operation resulted in 76 arrests in Miami. The second operation, just completed in the Los Angeles area, has accounted for 102 arrests.

The national prisoner transportation system has proven to be highly cost effective. During the first quarter of 1982, 32.6 percent more prisoners were transported than in the prior year with only a 14-percent increase in cost.

Finally, with the assistance of the administration and this committee, the Marshals Service was able to terminate a planned reduction-in-force in 1982. With full funding of this request no personnel reductions will be necessary in 1983. The Service will have to continue the freeze on employment which began in 1980, and a redistribution of available manpower may be required to assist districts that lose more than their share through attrition.

SUPPORT OF U.S. PRISONERS

The Service is also requesting $30,704,000 for the suport of U.S. prisoners appropriation in 1983. This is an increase of $6,604,000 over the anticipated appropriation for 1982.

Included in this request is $3,910,000 for uncontrollable increases and a $2,694,000 program increase. The program increase is required to cover the costs of additional jail and hospital days for Federal prisoners in custody of the Service. Funding of this request will enable the Service to house unsentenced Federal prisoners in State and local institutions where Federal facilities are not available.

This concludes my prepared statement, Mr. Chairman. I shall be pleased to answer questions you or members of the subcommittee may wish to ask.

BUDGET REQUEST

Mr. HALL. I will give a brief summary, Mr. Chairman.

We are, of course, very pleased to have this opportunity to appear before you this morning in support of the 1983 appropriation request for the U.S. Marshals Service. The request provides for 2,018 positions and $110,720,000, which is a net increase of $5,695,000 in funding and a decrease of 50 positions from the anticipated appropriation of 2,068 positions and $105,025,000 for 1982.

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Mr. Chairman, that summarizes the substance of my entire statement.

EXTRAORDINARY SECURITY DETAILS

Senator WEICKER. In fiscal year 1982 you are requesting a supplemental of $2,471,000 for the witness security program. This will bring the total appropriation to $18,802,000 for the year.

Would you explain why this appropriation is necessary?

Mr. HALL. This is for unprecedented and unanticipated witness security details involving extremely dangerous and highly visible criminal trials and protective details for which we have continuous 24-hour protection during the trials.

AVERAGE COST OF A PROTECTED WITNESS

Senator WEICKER. What is the average cost to the Government for each protected witness?

Mr. HALL. For each protected witness?

Senator WEICKER. Yes.

Mr. SAFIR. The average cost to reidentify and relocate a witness for his time in the program, which is continuous, is about $36,000 overall, including salaries and expenses, both for U.S. marshal personnel and the witness. However, extraordinary details which require 24-hour, around-the-clock protection increase this cost significantly, and I believe we have spent $270,000 on Mr. Hinckley alone, so far this year.

PROTECTION OF THE JUDICIARY

Senator Weicker. Late last year you notified some 150 marshals, including 40 or so in D.C., that they would be laid off. Then we heard from the judges about this.

We have a real dilemma here as far as I am concerned. The Marshals Service is supposed to provide protection for some 800 or so judicial officers. But the money is in your budget. When OMB puts the pressure on you to cut positions and funds, you look to courtroom security. Now the judges can resort to court orders.

So, I suppose my question is: What do we do about this problem?

Mr. HALL. It is indeed a problem. We are trying to apply our resources as best we possibly can to meet the needs of the judiciary. The Attorney General met with the Chief Justice last spring to determine if it would be possible to reach an accord with the judiciary on what level of security would be acceptable. I trust that some accommodation can be reached that would be mutually agreeable. That remains to be seen.

We anticipate providing judicial security any time there are defendants in custody or there is a prediction of possible danger or a dangerous trial. We are asking the judiciary to indulge us in not requesting deputies in nondangerous civil trials. In some cases this is working and in some cases it is not working.

My best answer to you is we are going to do the very best we can to provide the appropriate level of security with the resources that we have.

Senator WEICKER. How many judicial officers are there to protect? How many marshals are authorized for this program?

Mr. HALL. Our predictions are that by 1983 there will be more judicial officers than there are U.S. marshals. The number of judicial officers projected for fiscal year 1982 is 1,605. The number of U.S. marshals is 1,642. That is an estimate.

Senator WEICKER. How many marshals are assigned in the court security program?

Mr. HALL. There are 291 in the total court security program.

Senator WEICKER. By your own admission, the number of threats to the judiciary are increasing by 20 percent and the number of trials requiring security will increase beyond 12,000. Does this budget provide increased security for the courts or is it a status quo budget in that regard?

Mr. HALL. Status quo.

PRISONERS HOUSED IN FEDERAL FACILITIES

Senator WEICKER. It is estimated that 108,000 individuals arrested will be received and processed by the Marshals Service in 1983. This is 13 percent more than in 1981.

What percentage of these prisoners will be housed in Federal as opposed to local jails?

Mr. HALL. Local prisoners, in the initial arrest, will be housed in local contract jails, before they are in the system. They will be funneled into Federal institutions when they go through the system.

Mr. SAFIR. We expect to house 18,645 prisoners in Federal institutions.

LOCAL JAIL RENOVATIONS

Senator WEICKER. The budget anticipates that up to $2.8 million of your prisoner support funds may be used for local jail renovations. Have you obligated any 1982 funds for this purpose?

Mr. HALL. No; we have not.

Senator WEICKER. Why not?

Mr. SHEALEY. We do not have the authority yet for the cooperative agreement program which would authorize us to get involved in local jail renovations.

Second, the majority of funds available in 1982 will be required to house prisoners in the local contract jails. There probably will be very little money available for this effort.

CONTRACT FACILITIES

Senator WEICKER. The number of contract facilities is projected to be down in 1983 to 620 from 753 in 1980. Is the cause of this court orders for overcrowding? What is the impact on the Marshals Service since the number of marshals has also been declining?

Mr. HALL. There is a significant impact. In some States we have no local facilities at all and are required to transport prisoners long distances, and in one or two situations to other States. It is in part due to the court orders. It is in part due to the fact that local institutions themselves are overcrowded. It is just not worth the bother to them to house Federal prisoners. It has a diminishing return.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. I have other questions which I will submit for the record which you may respond to in writing for the record. Thank you very much.

Mr. HALL. Thank you very much, Senator.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

What actions does the Department take when allegations are received that a witness has or might have committed a criminal or civil offense? Does the Department always forward this information to the appropriate jurisdiction for prosecutive action?

The Marshals Service cooperates fully with any legitimate law enforcement investigation, providing any necessary background information to federal, state and local authorities. If a felony warrant is issued for a program participant, the Marshals Service will and has assisted local law enforcement authorities in extraditing the individual under the Interstate Compact Act.

There has been much recent media attention to various and sometimes violent criminal acts committed by relocated witnesses. We have heard that the Marshals Service maintains an "arrest log" to capture this information. Based on this arrest log, please list the data and place of arrest, indictment or conviction, offense witness arrested, indicted or convicted for, date witness entered the program for September to December 1980 and September to December 1981.

The Marshals Service is presently updating and computerizing records relative to the arrests and convictions of program participants. This information will be supplied to you as soon as it is available.

Witness Protection

Information shows that the number of persons being admitted to the Witness Security Program has been declining while at the same time witnesses being funded and maintained are estimated to increase. What are the reasons for this apparent inconsistency?

While recent trends indicate a decrease in the number of witnesses entering the program, the Marshals Service has a responsibility to provide services to witnesses and their dependents admitted to the program in previous years. The newer witnesses are testifying in multiple conspiracy cases, generally requiring a greater number of court-related appearances of a longer duration. Given the present job market, it is increasingly difficult to locate employment opportunities, especially for individuals with criminal records and limited job skills.

You state a major program objective is to assist witnesses in becoming self-sustaining under their new identities. What percent of relocated witnesses achieve this objective?

Based on statistics available for the last three fiscal years, over half of those witnesses terminated from monthly funding were self-sufficient through gainful employment.

What percent of relocated witnesses do not adopt law abiding lives under their new identities?

The recidivisim rate among relocated witnesses is approximately 15 percent.

What is the Service doing to resolve the long-standing problem caused by witnesses leaving unpaid debts and unresolved child custody matters behind?

Upon entry into the Witness Security Program, the witness and adult family members enter into a memorandum of understanding with the Marshals Service wherein they agree to settle any prior debts. The Marshals Service will not shield program participants from their creditors. Should a creditor wish to initiate court action against a program participant, the Marshals Service will serve the process to the witness. It is the witness' responsibility to satisfy these obligations.

Additionally, the Marshals Service has proposed several policy changes with respect to those individuals who fail to meet their financial responsibilities. These recommendations are presently being reviewed by the Department of Justice.

It is also the policy of the Marshals Service that children are moved only if the parent to be relocated has custody of the children. If the nonrelocated parent petitions the court for custody after the witness has been relocated, the relocated parent is returned to court with the physical protection of the Marshals Service for any custody hearing. If custody is subsequently awarded to the nonrelocated parent, the Marshals Service will assist in returning the children to the nonrelocated parent. It is the policy of the Marshals Service to abide by all court orders. Program participants are advised of this policy as part of the memorandum of understanding.

When a plaintiff wins a legal judgment against a relocated witness and the witness does not comply with the judgment, doesn't this place the plaintiff in a untenable position because he has no means by which to enforce the judgment? When this type of situation occurs, how does the Service handle it?

As mentioned above, it is Marshals Service policy to serve and abide by all court orders.

You state 88 witnesses were reactivated for funding because of new threats or other reasons. What was the total cost of these efforts and what specific services were provided to those who received new threats?

In 1981, the Marshals Service expended $1,367,886.87 under the Fees and Expenses of Witnesses appropriation for 88 witnesses and their families who were reactivated during that period.

What were the "other reasons" you mentioned?

Witnesses were reactivated for "other reasons" such as the loss of employment through no fault of their own and special medical treatment for a pre-existing condition not covered by their health plan.

Security to the Courts

Courtroom security continues to be a real problem. The number of judges and other judicial personnel keeps increasing; but, the Marshals detailed to protect them have declined.

In its report on the 1982 bill, the Committee recommended that you discuss this matter with the Chief Justice to reach some agreement on the allocation of Marshals.

What was the result of these discussions?

The Chief Justice and the Attorney General have met twice, last year and most recently on March 10, 1982, to discuss court security. As a result of these meetings, a joint statement has been issued dealing with the resolution to the problems of court security. The following information is a brief summary of the joint statement.

The United States Marshals Service and, more specifically, the U.S. Marshal in each district will assume responsibility and authority for the provision of security services to the judiciary. So that security can be completely centralized at the district level, the Attorney General is seeking a delegation of authority from the Administrator, General Services Administration, to directly contract for guard service. This delegation will enable the U.S. Marshals Service to use deputy marshals and contract guards in a concerted fashion to meet the needs of the judiciary.

The Attorney General will also seek additional funding for court security and 45 workyears within the Marshals Service will be reallocated to return court security resources to the levels existing in 1979.

Finally, the recommendations of the Task Force on Court Security have been adopted and their implementation will begin as rapidly as possible. The recommendations provide a reasoned and rational methodology for the provision of the security services in the courtroom, as well as general recommendations for the development of a comprehensive system for court security. The implementation of the recommendations will require the active involvement of all participants in the judicial system and the Marshals Service if they are to be successfully utilized.

In summary, these proposed actions represent what we believe to be a beginning to the resolution of a critical problem of court security.

Jail Construction

The Task Force on Violent Crime recommended $2 billion for state and local jail construction. The budget authorizes up to $2 million for rehabilitation of local jails that allow detention of federal prisoners.

Do you actually have the $2 million within this budget request for support of prisoners?

In the 1983 budget request for the Support of U.S. Prisoners appropriation, authority is requested for the purpose of renovating and equipping state and local detention facilities that confine federal prisoners. The proposed appropriation language restricts the amount to $2,800,000 which the U.S. Marshals Service may spend for renovations. As outlined on page 3 of the Support of U.S. Prisoners budget request, funds will be used, if available, to rehabilitate and equip state and local detention facilities, not to construct detention fa-

cilities. Because of the higher costs recently demanded by local governments to house federal prisoners and increased federal emphas on arrest of violent criminals, the request of $30,704,000 for the Support of U.S. Prisoners appropriation may need to be used entirel for the incarceration of federal prisoners in local detention facil ties.

Questions Submitted by Senator Thad Cochran

Witness Security Program

How many persons have been under the protection of the Marshals Service? What standard is used to determine whether a person shoul be in the program and who makes that decision?

	Principals	Dependants	Total
1977	469	658	1,127
1978	440	523	953
1979	427	544	971
1980	334	335	669
1981	282	294	576

Authorization into the Witness Security Program has been delegated by the Attorney General to the Office of Enforcement Operations (OEO), Criminal Division, Department of Justice. OEO makes a case-by-case determination based on information supplied by the sponsoring prosecutor, investigating agency, and the United States Marshals Service.

What services are provided to the persons in the program? For example, how many were relocated? How many were given new identities. How many received financial assistance? How many received help in finding employment? Any other kinds of assistance?

Program participants are provided the following services by the United States Marshals Service:

- Physical protection while in a danger area for court related appearances.
- Relocation to a safe area.
- Secure movement of household goods.
- Documentation papers in a new identity to include a court-ordered name change, Social Security number and benefits, drivers' license, proof of birth, school and medical records, professional certificates (e.g., pilot's, nurse's, beautician's, etc. certificates), religious certificates, immigration papers. These documents are provided on a case-by-case determination, depending on the individual's eligibility. All documents provided are authentic.

- Employment assistance.
- Medical, dental treatment and psychiatric counseling if necessary.
- Monthly living allowance, based on family size and geographic relocation area until such time as the family is self-sufficient. (Funding guidelines are established by the Department of Justice in accordance with cost-of-living statistics promulgated by the Bureau of Labor Statistics, Labor Department.)

These services are available to all program participants who agree to follow the necessary security guidelines of the prgram.

The statistics requested on relocations etc., are supplied on the following table:

Protected Witnesses Statistics

Item	FY 77	FY 78	FY 79	FY80	FY 81
New Witnesses Entering Program	469	440	427	334	282
Witnesses Reactivated for Security or Other Reasons	172	199	78	89	88
Relocation of Witnesses (includes all of the above)	641	639	505	423	370
New Identities (all relocated witnesses assume new identities)	641	639	505	423	370
Financial Assistance to witnesses (includes all of above)	641	639	505	423	370
Carry-over from prior year statistical funding reports	406	446	626	409	327
One-time funding Assistance (Trial/Pretrial appearances included eff FY 79)	135	200	932	957	769
BACKLOG* Other Workloads for Witness Services	2,271	2,711	3,138	3,472	3,775

*The number of individuals to whom these services are given grows as more people enter the program, creating a "backlog" of required continuing services.

EMPLOYMENT ASSISTANCE:

In the Memorandum of Understanding between the Marshals Service and the new protected witness, the Marshals Service advises the witness:

1. When assistance has been provided to the extent that the witness' life or person is no longer in danger, subsistence allowance assistance may be discontinued. It is, therefore, imperative that the witness, with the assistance of the Marshals Service, begin vigorously seeking employment as soon as possible.

2. The Marshals Service will provide the protected witness with ONE REASONABLE JOB OPPORTUNITY. The Marshals Service can give no assurance that the job opportunity which may be located will be equal to the witness' last job in either type, prestige or pay. The Marshals Service will attempt, when possible, to locate a job opportunity which is commensurate with the witness' previous work experience.

3. If a reasonable job opportunity is secured, THE WITNESS IS EXPECTED TO ACCEPT THE JOB. If the witness fails to accept this job opportunity, the witness may be terminated from maintenance allowance assistance.

4. IF, BECAUSE OF THE WITNESS' DISABILITY, AGE, OR OTHER REASONS, THE MARSHALS SERVICE IS UNABLE TO OBTAIN A JOB OPPORTUNITY FOR THE WITNESS, THE WITNESS WILL BE ASSISTED TO OBTAIN PLACEMENT IN A FEDERAL, STATE OR LOCAL PUBLIC ASSISTANCE PROGRAM.

Under the "due process" termination of funding, the Marshals Service does not immediately terminate funding upon entrance of the witness into employment. Normally, the witness is terminated from funding assistance three months after becoming employed.

Because of the myriad assistance services the witness is provided by the Marshals Service, no actual work year statistics have been developed for this specific service, nor have the number of interviews with potential employers been documented statistically (versus information contained within each individual file) heretofore. However, based upon statistical and financial historical records, the following data reflects employment and/or other financial assistance obtained during the following fiscal years:

FY 77	FY 78	FY 79	FY 80	FY 81
602	457	756	505	288

What is the total amount of money paid out to persons in the program for the last five years?

1977 - $5,819,781
1978 - $6,492,789
1979 - $7,606,241
1980 - $7,192,925
1981 - $8,463,915

What is the average payment?

To answer this question in terms of averages could possibly be misleading. Participants in the Witness Security Program are funded according to their family size and geographic location. Funding guidelines, established by the Department of Justice, are predicated on cost-of-living statistics provided by the Bureau of Labor Statistics, Department of Labor. For example, a single person, with no family, in Austin, Texas could receive $810.00, whereas, a single person in Boston, Massachusetts could receive $1,094.00. However, to say these two figures constitute an "average" of $952.00 would not be accurate.

How many persons in the program had criminal charges pending against them at the time they were brought into the program? Please give a breakdown of the type of charges, federal vs. state, felony vs. misdemeanor, and list out murder (including attempted murder and any conspiracy to murder charges) theft, kidnapping, rape, arson, and any other pertinent categories.

The United States Marshals Service does not maintain statistical records relative to the criminal charges pending against witnesses at the time they enter the Witness Security Program.

How many persons in the program had prior criminal records and indicate by category the type of convictions?

Approximately, 95 percent of the program participants have prior criminal records. The Marshals Service does not maintain statistical records relative to the types of offenses committed by relocated witnesses prior to their entry into the program.

Does the Marshals Service or any other office of the Federal Government notify state and/or local law enforcement officials of the fact that a person in the program has been located into their jurisdiction? Does such notification take place for persons who change their identity while in the program? Does such notification take place where state law requires the registration of convicted felons?

For reasons of security, the Marshals Service does not notify state/local authorities of the presence of a relocated witness. Pursuant to agreements with the U.S. Parole Commission and the U.S. Probation Office, federal parolees and probationers requiring active supervision are supervised by the appropriate federal bureau.

How does the Marshals Service maintain contact with the persons in the program? How long does this contact last in the average case?

Witness Security Inspectors in the field maintain close contact with funded program participants as they assist them in resettling and adjusting to their new relocation area, finding suitable permanent housing, locating employment, assisting with medical care and enrolling children in school. Once the witness is self-sufficient and no longer receiving monthly funding, this contact is less frequent. However, as long as the witness remains in the relocation area and abides by the security guideines of the program, the Witness Security Specialist will assist him/her with any subsequent development.

How does someone "graduate" from the Witness Protection Program?

A witness' participation in the Witness Security Program is purely voluntary. He/she receives a monthly living allowance until such time as he/she is self-sustaining. The Marshals Service will continue to assist witnesses and their families with additional documentation, protection at court-related appearances and other services as long as they are required, providing the witness remains in the relocation area and abides by the program security guidelines.

How many times in the last five years have persons in the program been charged with and/or convicted of crimes while in the program?

The Marshals Service is presently updating and computerizing records and convictions of program participants. This information will be supplied to you as soon as it is available.

What is the law with respect to the liability of the Marshals Service or the Federal Government to victims of persons in the program who commit criminal acts?

There is no general liability on the part of the Marshals Service or the Federal Government for the wrongdoing of the protected witness absent any finding of government fault.

Are there any funds requested in the budget to pay such victims?

No, such funds have not been requested.

Has the Federal Government been sued in state or federal court on the issue of liability to victims in the last five years? Please indicate the status and disposition of each case.

The U.S. Marshals Service is a defendant in Berman vs. United States, C.A. No 79-1041-C(3) (E.D. Mo.) in which a widow of a city policeman sued under the the Federal Tort Claims Act alleging the murder of her husband by a relocated witness was the fault of the government because the government should have supervised his activities. Judgment for the widow is $69,000. The government has appealed.

Questions Submitted by Senator Ernest F. Hollings

1982 Supplemental

What are the extraordinary costs in 1982 that require a $4,000,000 supplemental appropriation?

Extremely dangerous and highly visible criminal trials and protective details such as the La Nuestra Familia trial and the John Hinckley detail require 24-hour round-the-clock protection of all trial participants during the duration of the trials.

Courtroom Security

According to the justifications, a 20 percent increase is expected in the number of threats to the judiciary in 1983 over the 125 threats for 1982. How do you expect to cope with such an increase when the resources for 1983 are the same as allocated in 1982 and are 60 less workyears than actually used in 1981 for security in the courtrooms?

The workyears allocated to Personal Security, which provides protection to the judiciary, are remaining constant. The reduced workyears reflect the Administration's decision to withdraw from non-dangerous civil trials and therefore, will not reduce the resources available for protection of the judiciary.

The justifications also indicate that because of GSA personnel ceiling problems, the U.S. Marshals Service is required to fund additional guards at some locations. Who will supply the additional guards if GSA already has a ceiling problem?

The additional guards will be contracted by GSA from the private sector to replace the reduced number of Federal Protective Service officer employees.

While we certainly appreciate that the Marshals Service is under severe pressure with regard to this function, do you really want us to believe "The more recent efforts against white-collar crime" has exacerbated your courtroom security problems?

White-collar crime cases often necessitate heightened degrees of security as required by members of the judiciary or based upon the profile of the case. Many white-collar crime cases draw major press attention, large numbers of spectators, and create unusual public interest or sentiment. Additionally, white-collar crime cases often involve costly investigative and prosecutorial efforts, lengthier and more complex court proceedings, and more sophisticated criminals with counsel more apt to take advantage of seemingly insignificant issues for the purposes of claiming mistrials based on alleged prejudicial acts of the press, spectators, or others. All of these combined concerns cause the courts, prosecutors, USMS, and investigative agencies to fear the potential maneuvers of white-collar crime defendants and their legal counsel, resulting in court-ordered increases in security precautions and, in particular, the sequestration of juries.

Last year the Marshals Service provided tables for the record that indicated that the creation of 117 additional district judges had been inversely matched by a reduction of 175 Marshals in the districts. In South Carolina, for instance, there were five additional judicial offices created between 1978 and 1981, but there was no change in the number of Marshals.

What analysis has been made of the impact of the additional judgeships on the Marshals Service?

The Marshals Service has analyzed the ratio of operational positions to judicial officials which reflects the following:

	Total judicial officials	Number of full-time U.S. Marshals positions	Ratio of U.S. Marshals positions per judicial officials
1979	926	1,845	2.0
1980	1,322	1,956	1.5
1981	1,605	1,728	1.1
Estimated 1982	1,605	1,642	1.0
Estimated 1983	1,677	1,592	.9

A portion of the reduction of U.S. Marshals positions is the decision of the Administration to remove deputies from nondangerous civil trials.

What is the situation with regard to the Deputy Marshals serving the District of Columbia Courts?

The reduction-in-force impacting Deputy Marshals in the District of Columbia was terminated January 12, 1982. However, the Service will have to continue the freeze on employment which began in 1980, and a redistribution of available manpower may be required to assist districts that lose more than their share through attrition. The Marshals Service will be reviewing district employment regularly to assure that sufficient numbers of personnel are available where needed.

Please supply for the record updated tables with the information that was displayed on pages 632-636 in last year's hearing.

The response is contained in the following charts.

UNITED STATES MARSHALS SERVICE
COMPARISON OF NUMBER OF JUDICIAL OFFICERS TO USMS EMPLOYEES

	October 1978	March 1982	September 1983 (Est.)	Percent Change 78-83
1. Number of USMS District employees	1,906	1,842	1,718	-9.9
2. Number of Judicial Officers Served 1/	1,410	1,605	1,677	+18.9
3. Number of Headquarters employees	120	130	130	+8.3
4. Number of Operational employees (not assigned to districts)	102	112	112	+9.8

1/ Includes: Circuit, Senior Circuit, District, Senior District, Magistrates, and Bankruptcy Judges.

U.S. MARSHALS EMPLOYEES BY CATEGORY

	Pos. Ceiling 10/1/78	On Board 3/10/82	PFTE Ceiling 3/ 9/30/83	Diff. 10/78-3/82	Diff. (Est.) 10/78-9/83
United States Marshals	94	94	94	—	—
Chief Deputies	93	84	84	-9	-9
Supervisory Deputies	111	85	85	-26	-26
Deputies	1,293	1,281	1,180	-12	-113
Administrative (Field)	315	298	275	-17	-40
Headquarters Personnel	120	130	130	10	10
Operational Employees 2/	102	112	112	10	10
Totals	2,128	2,084	1,960	-44	-168

2/ Not assigned to district offices.
3/ 1983 PFTE data not available as yet by district.

District	Status when Judge-Ship Bill Enacted 10/78		Status as of 3/10/82		Change 10/78-3/82	
	Number of Jud. Officers	Number of USMS Emp.	Number of Jud. Officers	Number of USMS Emp.	Number of Jud. Officers	Number of USMS Emp.
N/Alabama	20	22	26	19	6	-3
M/Alabama	9	12	11	13	2	1
S/Alabama	7	9	7	12	—	3
S/Florida	29	36	30	43	1	7
N/Marianas	1	—	1	—	—	—
Alaska	10	8	9	10	-1	2
Arizona	23	33	30	37	7	4
E/Arkansas	12	12	15	16	3	4
W/Arkansas	11	8	11	9	—	1
N/California	35	34	37	27	2	-7
C/California	49	61	54	53	5	-8
Colorado	24	18	24	16	—	-2
Connecticut	15	14	18	14	3	—
Delaware	10	6	9	6	-1	—
District of Columbia	35	205	39	152	4	-53
M/Florida	7	11	10	13	3	2
M/Florida	17	35	24	33	7	-2
N/Georgia	31	31	30	30	-1	-1
M/Georgia	10	11	12	11	2	—
S/Georgia	7	14	9	16	2	2
Hawaii	9	9	9	11	—	2
Idaho	10	8	11	9	1	1

District	Status when Judge-Ship Bill Enacted 10/78		Status as of 3/10/82		Change 10/78-3/82	
	Number of Jud. Officers	Number of USMS Emp.	Number of Jud. Officers	Number of USMS Emp.	Number of Jud. Officers	Number of USMS Emp.
N/Illinois	41	47	47	29	6	-18
S/Illinois	8	11	6	11	-2	—
C/Illinois	7	10	13	9	6	-1
N/Indiana	10	14	11	14	1	—
S/Indiana	14	18	17	15	3	-3
N/Iowa	10	6	9	7	-1	1
S/Iowa	9	9	9	10	—	1
Kansas	20	22	21	20	1	-2
E/Kentucky	10	18	15	19	5	1
W/Kentucky	13	16	14	16	1	—
E/Louisiana	19	38	26	31	7	-7
W/Louisiana	15	19	16	17	1	-2
Maine	7	7	8	7	1	—
Maryland	19	39	23	39	4	—
Massachusetts	24	31	31	27	7	-4
E/Michigan	26	38	30	31	4	-7
W/Michigan	10	9	15	10	5	1
Minnesota	18	21	20	19	2	-2
N/Mississippi	6	9	8	11	2	2
S/Mississippi	7	12	7	15	—	3
E/Missouri	16	19	19	20	3	1
W/Missouri	13	25	16	20	3	-5
Montana	18	11	18	13	—	2
Nebraska	13	11	12	11	-1	—
Nevada	10	14	12	14	2	—
New Hampshire	5	6	6	7	1	1
New Jersey	26	35	27	24	1	-11
New Mexico	16	13	18	14	2	1
N/New York	14	9	13	13	-1	4
E/New York	22	40	23	35	1	-5
S/New York	57	60	60	57	3	-3
W/New York	12	13	10	17	-2	4
E/North Carolina	8	12	9	15	1	3
M/North Carolina	7	12	8	13	1	1
W/North Carolina	7	10	7	16	—	6
North Dakota	12	10	13	12	1	2
N/Ohio	25	32	29	29	4	-3
S/Ohio	22	18	26	22	4	4
N/Oklahoma	8	8	10	7	2	-1
E/Oklahoma	8	6	9	10	1	4
W/Oklahoma	13	15	15	17	2	2
Oregon	19	15	23	15	4	—
E/Pennsylvania	33	32	34	33	1	1
M/Pennsylvania	11	14	14	12	3	-2
W/Pennsylvania	23	20	22	18	-1	-2
Puerto Rico	9	13	14	18	5	5
Rhode Island	7	8	7	10	—	2
South Carolina	13	25	21	24	8	-1
South Dakota	10	16	9	16	-1	—
E/Tennessee	10	12	9	14	-1	2
M/Tennessee	8	11	10	14	2	3
W/Tennessee	10	12	8	14	-2	2
N/Texas	21	29	29	26	8	-3
E/Texas	8	13	9	13	1	—
S/Texas	22	41	30	40	8	-1
W/Texas	23	41	26	44	3	3
Utah	7	9	13	10	6	1
Vermont	9	6	8	8	-1	2
E/Virginia	19	41	24	45	5	4
W/Virginia	15	9	16	11	1	2
E/Washington	5	8	6	8	1	—
W/Washington	19	19	22	21	3	2
N/West Virginia	8	7	9	7	1	—
S/West Virginia	11	15	16	12	5	-3
E/Wisconsin	12	14	13	14	1	—
W/Wisconsin	9	7	10	7	1	—
Wyoming	15	8	15	11	—	3
Canal Zone	1	3	1	1	—	-2
Guam	1	3	1	4	—	1
Virgin Islands	5	7	3	10	-2	3
M/Louisiana	4	7	6	7	2	—
E/California	23	27	28	26	5	-1
S/California	14	44	17	36	3	-8
Subtotal Districts	1,410	1,906	1,605	1,842	195	-64
Headquarters	--	120	—	130	—	10
Operational personnel 1/	—	102	—	112	—	10
Totals	1,410	2,128	1,605	2,084	195	-44

1/ Not assigned to district offices.

Service of Process and Court Orders

According to the justification, approximately 73,000 federal warrants were issued in 1980, 29,558 of which were executed by the Marshals Service. Who executed the other 43,442 warrants that were issued in 1980, and why does the justification say that the warrants executed by the Marshals Service were "higher" than all the other federal agencies combined"?

During 1980, a total of 73,000 federal warrants were issued, 29,558 were executed by the Marshals Service and 9,942 by other agencies. The remainder is made up of warrants unexecuted or outstanding and fugitives detained but not yet arrested by the Marshals Service.

Handling of Federal Prisoners

The National Prisoner Transportation System moving prisoners in a leased 50-passenger commercial aircraft over dedicated air routes appears to be successful. What are the prospects for the Marshals Service acquiring an agency-owned aircraft through excess property procedures?

The Service is aware of the potential benefits of agency-owned aircraft operations as a means of reducing costs, enhancing security, and improving services. To date, the Marshals Service has prepared necessary administrative and operational doctrine, developed routes and schedules, determined flight qualification standards and pilot availability within the Service, and has located appropriate surplus aircraft (a 36-passenger Convair VT-290 and a 6-passenger Beechcraft Queenair BE-80), with associated and necessary spare parts valued at a total of about $746,000. These aircraft and parts are frozen in-place within the Department of Justice so that they will be available upon completion of the OMB A-76 cost comparison analysis which is a prerequisite to agency-owned aircraft operations.

The justifications indicate that the number of jail inspections is dropping off from 418 in 1980 to 350 in 1983. Is the reduction in inspections due to lack of manpower to perform the inspection?

Increased usage of federal facilities and to some extent limited manpower has caused the decrease.

Questions Submitted by Senator Dale Bumpers

Your FY 1983 budget request for the Witness Security Program is $17,518,000, and 258 permanent positions. The justification for this request reflects that in 1980 you had 260 permanent positions.

The chart on page 49 of your justification shows that in 1980, 334 new witnesses were accepted, but in 1983 you estimate this number will drop to 280.

Are these numbers realistic in light of the crime initiative announced by the President?

Yes. Recent trends indicate a decrease in the number of individuals authorized protection under the Witness Security Program by the Department of Justice (e.g., FY 1979-427, FY 1980-334, FY 1981 -282). An increasing number of these witnesses, however, are testifying in a greater number of trials. Consequently, these witnesses are of a higher profile, presenting a greater security risk. The 280 estimate is predicated on past years' experience. However, in light of the President's crime-fighting initiatives, the Attorney General cannot be limited in the number of individuals authorized program services.

Last year I was told that 3,515 witnesses (including both active and inactive) were in the program. How many are in it today, and how many are active?

As of March 10, 1982, 3,890 principals have been authorized protection under the Witness Security Program. Of these, 377 are presently receiving monthly subsistence allowances.

What is the average amount per month a person receives once he participates in this program?

To answer this question in terms of averages could possibly be misleading. Participants in the Witness Security Program are funded according to their family size and geographic location. Funding guidelines, established by the Department of Justice, are predicated on cost-of-living statistics provided by the Bureau of Labor Statistics, Department of Labor.

For example, a single person, with no family, in Austin, Texas could receive $810.00, whereas, a single person in Boston, Massachusetts could receive $1,094.00. However, to say these two figures constitute an "average" of $952.00 would not be accurate.

Once again your budget reflects a decrease in permanent positions (50) and money ($1,029,000) due to a request that you no longer serve process in private, civil cases. Last year I was told that your average cost for service was about $18, while you only received $3 plus 12 cents per mile. What is your average cost today?

The Marshals Service estimates that the current average cost is $19.45.

Security Support Program

The Security Support Program provides protection for both judges and litigants. Your budget justification on page 54 states:

"The present thrust against violent crime and terrorism, and the additional number of federal judges and magistrates will increase demands on limited resources."

Your request, however, reflects no new permanent positions and the total request of $21,893,000 is considerably below the 1981 level of $24,331,000.

Do you think you can maintain adequate security in the courtrooms of this country without any increase in personnel?

The Marshals Service will prioritize and concentrate its available resources on those situations of a more serious nature based on the assessment of threat. Please note however, the 1981 level of $24,331,000 includes $1,843,000 in supplemental funding for extraordinary security details which does not appear in 1983.

Do you still provide security in civil cases and bankruptcy courts?

Security for civil cases and bankruptcy courts will be provided, as stated above, based on the threat assessment.

Last year in response to a question from Senator Hollings, a table was submitted to this subcommittee which showed that between October 1978 and the end of September of this year, it was estimated that the number of district employees of your agency would decline by 12.5 percent, while the number of judges and magistrates you would be required to serve would increase by 21.8 percent. What are you doing to keep up with this increase in judges and why is there not any increase contained in this budget to take the increase in judges into account?

The Marshals Service intends to prioritize and concentrate resources based on threat assessment. In so doing it is felt adequate security can be provided within existing resources.

OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

STATEMENT OF ROBERT F. DIEGELMAN, ACTING DIRECTOR

ACCOMPANIED BY:

CHARLES A. LAUER, ACTING ASSOCIATE ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION
JAMES L. UNDERWOOD, ACTING DIRECTOR, NATIONAL INSTITUTE OF JUSTICE
ALLEN J. VANDER-STAAY, BUDGET OFFICER
KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION
CHARLES R. NEILL, CONTROLLER
JOHN SHAFFER, DIRECTOR, BUDGET STAFF

BUDGET REQUEST

Senator WEICKER. The next request is the two appropriations which make up the Office of Justice Assistance, Research, and Statistics. The amount requested for law enforcement assistance is $18,514,000, a decrease of $75,586,000 from the 1983 base, and provides for continuation of the public safety officers' benefits program and the administrative expenses associated with the phase-out of the law enforcement assistance and juvenile justice programs.

The amount requested for the research and statistics appropriation is $37,142,000, which is the 1983 base level, and provides for research, evaluation, and demonstration programs and statistical activities of the Department of Justice.

Appearing on behalf of this request is Mr. Robert Diegelman, the Acting Director, who is accompanied by—why don't you introduce your colleagues.

Mr. DIEGELMAN. You know the departmental representatives. To my immediate left is my Budget Officer, Mr. Allen Vander-Staay. To his left is Acting Associate Administrator, Office of Juvenile Justice, Mr. Charles A. Lauer. Directly behind me is the Acting Director of the National Institute of Justice, Dr. Underwood.

PREPARED STATEMENT

Senator WEICKER. Why don't we place your statement in its entirety in the record and if you would go ahead and summarize it.

Mr. DIEGELMAN. Yes, sir.

[The statement follows:]

STATEMENT OF ROBERT DIEGELMAN

I am pleased to have the opportunity to appear before you in support of the 1983 budget request for the Office of Justice Assistance, Research, and Statistics. The re-

quest is for $55,656,000 and 195 positions which represents a net decrease of $72,898,000 and 86 positions below the $128,554,000 appropriation and 281 positions anticipated for fiscal year 1982. This budget request supports the President's program for economic recovery to revive the Nation's economic growth and prosperity and is based on the belief that Federal subsidies for State and local criminal justice programs should be reduced or eliminated since State and local agencies should be capable of assuming greater responsibility in these areas.

The request for $55,656,000 provides funds for two appropriations. The sum of $18,514,000 and 118 positions is for the law enforcement assistance (LEA) appropriation, a reduction of $75,040,000 and 74 positions below 1982. Included in the LEA request is an increase of $669,000 for the public safety officers' benefits program; a net increase of $546,000 for adjustment to base items such as uncontrollable increases; a reduction of $3,800,000 for crime control programs which represents elimination of the treatment alternatives to street crime (TASC) program; and a reduction of $2,455,000 and 12 positions for administrative services activity that includes 5 positions and $200,000 which provided administration of the TASC program. The request also provides for a reduction of $70 million to eliminate juvenile justice programs in which $2,400,000 and 62 positions for administration of the program is included.

The juvenile justice programs have achieved remarkable results in reducing the number of status offenders in institutions. Many other excellent improvements have been made to the juvenile justice systems throughout the country. We believe that the program has gone a long way toward achieving its objectives and has amply demonstrated that the goals of the authorizing legislation are attainable. However, we also believe that the burden of funding the various juvenile justice programs should be shifted to the State and local levels where responsibility lies for public safety. We know that many of the States have institutionalized programs begun with Federal funds provided by this program and we believe that many more will follow suit because many of the programs have proven successful.

The public safety officers' benefits program pays an average of 250 claims each year. In addition to the funds appropriated in fiscal year 1982 and requested for fiscal year 1983 OJARS is reserving funds whch are being reclaimed by closing out expired LEAA grants and contracts so that all eligible claims will be paid.

The other appropriation under the OJARS umbrella is research and statistics, for which $37,142,000 and 77 positions is requested. This is a net increase of $2,142,000 over the anticipated appropriation for fiscal year 1982 and a decrease of 12 positions. These positions are being eliminated in accordance with the President's objective to reduce Federal employment. This request, which maintains the current levels of funding in 1983 for the National Institute of Justice and the Bureau of Justice Statistics, underscores the Department's firm commitment to continue to support State and local criminal justice systems in research, evaluation, testing and statistics collection, and analysis. The change from 1982 reflects adjustments to base, as well as uncontrollable increases associated primarily with pricing level adjustments.

This concludes my prepared statement, Mr. Chairman. I shall be happy to answer any questions you or the other members of the subcommittee may have.

OPENING STATEMENT

Mr. DIEGELMAN. In order to keep it brief, I would like to give you a very quick summary of what the request does represent.

I am pleased to have the opportunity to appear before you in support of the 1983 budget request. It is a very significant request from the point of view that it represents—I think—the third and final step in the complete redefinition and retargeting of Federal resources to State and local governments in the crime control area.

What that means is that this is in essence a close-out budget for a long history of Federal involvement in financial assistance to State and local governments.

This request contains no additional grant funds in the area of State and local assistance, what formerly was the LEAA program; nor does it include any additional funds for the juvenile justice program. The budget request is for $55,656,000 and 195 positions, which represents a significant decrease under what we expect for 1982—a decrease of approximately $73 million, and 86 positions.

LAW ENFORCEMENT ASSISTANCE

As you summarized in your opening statement, there are two appropriations included under this request: $18.5 million is for the law enforcement assistance appropriation, a majority of which, or $10.8 million actually, goes to the public safety officers' benefits program, and the remainder to support the 118 positions needed to close out the existing LEAA program and the juvenile justice program, as well as to continue support services for the National Institute of Justice and the Bureau of Justice Statistics.

The administration is once again proposing the termination of the juvenile justice program, authorized by the Juvenile Justice and Delinquency Prevention Act of 1974, on the grounds that the statutory objectives of the act have been, to a great extent, achieved. Out of the 235,000 juveniles who were in improper incarceration at the start of the period, in 1974, 200,000 have been removed. By the end of fiscal year 1982, we expect the number to be on the order of 6,000 or 7,000 juveniles. In addition, most of the States have already passed legislation or developed policies that in essence accomplish the same goals of that act.

The public safety officers' benefit program will be continued in 1983, and although the amount requested is less than what has been our track record in terms of approving individual claims, we are planning to use reverted LEAA funds that have returned to the Government to meet the difference between the $12.5 million that we believe will be required for the program and the $10.8 million which is requested.

On the average we receive about 325 claims of which about 250 are eligible for payment. This request represents in reality no decrease for that program.

RESEARCH AND STATISTICS

In the research and statistical area, it is a maintenance effort budget, with slight increases in the request for uncontrollable items. We do have a net decrease of 12 positions—10 in the National Institute of Justice and 2 in the Bureau of Justice Statistics.

As you can see, of the total $56 million which we have requested, $37 million is going into research and statistics, and this, from the point of view of the administration, represents a significant commitment for continued Federal research in the areas of crime, crime control, and criminal justice systems operations, as well as continued maintenance of the national statistical system that will allow policymakers and Government leaders to assess the Nation's crime problem.

That is basically a summary of my written statement. I am prepared to answer any questions you might have.

OJJDP RIFS

Senator WEICKER. Does the Department intend to implement major reductions-in-force affecting the staff of the Office of Juvenile Justice and Delinquency Prevention in fiscal year 1982, prior to a final decision by Congress on the 1983 budget?

Mr. DIEGELMAN. That of course, Senator, is dependent upon when the Congress makes its final decision. At this point the 1983 request does not include sufficient administrative funds to allow us to carry the existing juvenile justice personnel for a significant period into fiscal 1983.

What I mean by that is that the 1983 budget represents a total zeroing out of both the administrative account for juvenile justice personnel as well as the program funds. We would probably have to initiate a reduction-in-force, probably in the October–November time period.

In 1982, no, we are not at this point planning any reductions in the total number of positions or the personnel involved in the juvenile justice program.

Senator WEICKER. I can't let the record go by without stating that there are some of us who do not believe the ball has been picked up at the State level; nor has legislation been enacted to make the type of impact which many of us feel was the case with the juvenile justice program. I am not impressed by the statistics of who is incarcerated and who is not. That is not my proposition. You can take any period of time and say OK, those incarcerated in such-and-such a year are not there any longer and then you have a whole new set of statistics, as you will have this year and next year and the year after that.

Indeed, the purpose of the program is two-fold. It deals not only with those who are incarcerated but to make sure that the others don't get incarcerated.

I have made my comments on this to the Attorney General. There is no point in belaboring this as far as this hearing is concerned. Let's see what the Congress does with it.

Mr. DIEGELMAN. Thank you very much.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. We will have questions submitted to you for the record.

Mr. DIEGELMAN. Thank you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

The budget details the accomplishments of the formula grant program with respect to the deinstitutionalization of status offenders and non-offenders. There were, as I recall, other goals of the program.

What progress has the program made to achieving some of its other goals--including the removal of juveniles from adult jails?

Of the 51 states participating in the JJDPA, 49 states have evidenced at least a 75 percent reduction in the number of status and nonoffenders held in detention. Of the 49 states above, 24 states have achieved full compliance with deinstitutionalization of status offenders.

Forty-five states have demonstrated progress in separating juveniles from adults in jails, detention and correctional facilities. Of the 45 states above, 19 have demonstrated full compliance with the separation provisions of the Act.

The 1980 reauthorization to the JJDP Act included a new provision prohibiting the confinement of juveniles in adult jails and lock-ups. Current estimates indicate that over 479,000 children are held in 8,833 adult jails and lock-ups each year. OJJDP is currently working on the statutorily required report on the potential impact of this prohibition in the states, due to Congress by June 8, 1982.

Approximately 10 percent of the formula grant funds are spent in support of delinquency prevention activities.

The Office is currently working with ACTION and six states to promote the placement of ACTION volunteers in youth facilities and programs.

The budget points out that policies and legislation with respect to deinstitutionalization of status offenders and monitoring capabilities have been established at the state level. Thus, you indicate that the supervisory structure exists at state and local levels.

However, the budget goes on to say that "Further action will be undertaken to encourage state and local governments to provide adequate resources toward addressing problems of the juvenile justice system."

What "further action" is being considered?

This will be accomplished through the provision of technical assistance. Technical assistance is provided through the dissemination of "how to" materials and the development of standards that can be implemented nationwide.

OJJDP has developed numerous publications addressing problems in the juvenile justice area and laying out recommendations for juvenile justice improvements. They include standards for juvenile justice, research and evaluation studies and manuals for practitioners and service providers. These resources will be distributed to states

and localities to further their continued involvement in improving the juvenile justice system.

Do you really believe that juvenile justice will rise to a priority level at the state and local level given all we are heaping on them?

In states where there is gubernatorial and/or legislative interest in juvenile justice issues, it will remain a priority.

The Budget justification states: "In place of federal funds, state and local governments will be encouraged to provide resources to address problems of the juvenile justice." Specifically, what actions will be taken in this regard?

OJJDP has developed numerous publications addressing problems in the juvenile justice area and laying out recommendations for juvenile justice improvements. They include standards for juvenile justice, research and evaluation studies and manuals for practitioners and service providers. These resources will be distributed to states and localities to further their continued involvement in improving the juvenile justice system.

If Congress were to enact a program of federal financial assistance to state and local law enforcement, how would the Department suggest Congress ensure attention to juvenile delinquency and crime?

Should such a federal financial assistance program include a juvenile justice component?

Should the Congress enact a program of federal financial assistance, we believe the program should be one of limited funding targeted on programs of demonstrated value and effectiveness. Since juveniles account for nearly one-fourth of all violent crimes, it is clear that no federal assistance program that hopes to do something about the problem of violent crime, can do so without including as eligible activities, programs that deal with serious and violent juvenile offenders. Over the last year, OJJDP has increasingly emphasized serious juvenile crime, and programs such as New Pride have proved to be successful. If federal assistance were to be made available, it should ensure attention to juvenile concerns by making the implementation of effective juvenile programs like New Pride one of the areas of federal support.

Should the minimum level of effort in connection with juvenile justice be set in the enacting statute?

No. Statutory specifications of minimum levels of effort unduly restrict state and local flexibility in determining their priorities, and are fundamentally at odds with the notion of giving local units of government substantial program responsibility. At the same time, these percentage earmarks often have the effect of creating additional red tape, as separate accounting and reporting systems have to be set up and maintained.

Should the Juvenile Justice and Delinquency Prevention Act be retained and efforts thereunder directed exclusively toward prevention after enactment of a general program of federal financial assistance to state and local law enforcement?

The Administration does not support the retention of the Juvenile Justice and Delinquency Act. It is our position that the Act has already largely achieved its original objectives of deinstitutionalization of status offenders, and that its reform mission has been completed. At the same time, we believe that in sorting out proper federal roles and responsibilities, it is clear that law enforcement and criminal justice, including juvenile justice, are more appropriately the domain of state and local governments. We do, however, believe that it is important to continue federally-sponsored research in the juvenile area, and this we see being an activity that could be assured by the National Institute of Justice.

Is the request for FY 1983 budget authority for the Office of Justice Assistance, Research, and Statistics (OJARS) characterized in the Department's February 8, 1982 press release as an OJARS request, in contrast to all other components of the Department's budget requests which are termed Department requests, in recognition of the independence of the OJARS constituent agencies to operate under the "general authority" of the Attorney General?

Budget requests from the Office of Justice Assistance, Research, and Statistics (OJARS) are fully reviewed by the Department and the Office of Management and Budget. Only the Parole Commission budget requests are outside the purview of the Attorney General. OJARS is independent of the Department only to the extent that its grants are not subject to review or approval.

Juvenile Delinquency

What percentage of crimes are committed by juveniles?

In 1980, juveniles accounted for 20.9 percent of arrests for all crimes.

What percentage of violent crime is committed by juveniles?

In 1980, juveniles accounted for 19.3 percent of arrests for violent crime. (Violent juvenile crime is defined to include the following offenses: murder, robbery, forcible rape and aggravated assault.)

In 1980, juveniles accounted for 35.9 percent of arrests for serious property crime. (Serious property crime is defined to include burglary, larceny-theft, motor vehicle theft and, in some instances, arson.)

In your opinion are we - at the federal level - abandoning a program which is designed to focus on a major part of the criminal problem?

The Federal Government has provided support to Juvenile Justice and Delinquency Prevention programs since 1968. Of the LEAA funds awarded to the states under the Block Grant program, approximately 20 percent of those funds were devoted to the Juvenile Justice program. In the years where LEAA's appropriation reached approximately $800 million, the Federal Government was supporting large scale juvenile-related activities. From 1976, the federal appropriation which amounted to a total of $500 million has been devoted directly to juvenile justice reform efforts. During this same period of

time, another $500 million of LEAA's Maintenance of Effort funds were utilized for the same efforts. In the states, the Federal Government has provided a focus on a major part of the national crime problem that after 14 years of funding can no longer be afforded. It should be noted that a large percentage of programs funded originally with OJJDP funds have been continued with alternative funding sources.

What will the elimination of this program do to a coordinated effort to combat juvenile crime? To prevent it where possible? To rehabilitate the offenders?

The elimination of the juvenile program will have a mixed effect in the states. First it should be noted that many issues related to juvenile crime are local issues, i.e., police practices that have traditionally not been effected by statewide coordination effort. Secondly, it should be noted that it was never intended to have OJJDP funds be the primary source of delinquency prevention. Our funds are a mere fraction of what localities expend on crime and delinquency matters so it does not appear that their elimination would result in a large increase in delinquent activity. This also applies to rehabilitation. Our funds have acted as the catalyst for the development and implementation of new ideas and activities and it is felt that rather than having the system collapse because of OJJDP elimination, it will be more difficult to test new and promising ideas, theories and practices. We do believe that in those states where juvenile violent crime, deinstitutionalization or prevention efforts constitute a priority with the governor or the state legislature, many of these efforts will continue. Further we believe that the changes to state laws will largely preserve the advancement made in the deinstitutionalization of status offenders and non offenders. The coordination mechanism set up by the Crime Control Act and the Juvenile Justice and Delinquency Prevention Act will in most states be retained where they are considered useful.

Questions Submitted by Senator Ernest F. Hollings

Public Safety Officers' Benefit Program

You indicate that the Public Safety Officers' Benefit Program pays an average of 250 claims each year. At $50,000 per death this amounts to an average annual cost of $12,500,000. Only $10,800,000 is budgeted, with the remainder to be provided from funds reverting from the states. While it is clear that the $1,700,000 in reverted funds required will be available, what will happen if the number of deaths significantly exceeds the 250 average; for instance, would the Department request a supplemental appropriation or delay paying the benefit until FY 1984?

Since the beginning of the program in FY 1977 the largest number of claims paid in a given year was 269. The number of claims paid in the first five months of FY 1982 is 86. Based on past experience we do not expect the approved claims to exceed 250 in FY 1982 or 1983. However, in the event that they did exceed 250 in any fiscal year, we would make every effort to find the necessary funds from terminated grants. If no funds were available, we would be forced

to delay payment until FY 1984. Since PSOB expenditures run at a rate of about $1,000,000 a month we would not know that we were going to be short until August or September and therefore the claimant would not have to wait more than a few weeks.

Use of Reverting Funds

In the past we were told that reverting grant funds would be used to absorb pay increases or reallocated to the states to phase-out the LEAA program. In 1981 only $1,214,000 was used for the pay increases, and $298,000 was provided to the states and localities for phase-out assistance. In addition, $1,594,000 was used to cover costs of 70 additional positions, and $3,499,000 was set aside for the Public Safety Officers' Benefits program in FYs 1981 and 1982. Almost $6,300,000 of the $12,896,000 in reverting funds allocated was used for a host of programs.

Supposedly, there were no LEAA program funds available in FY 1981, yet we find 25 programs receiving funds ranging from $19,000 up to $1,183,000.

Why are the reverting funds not reported to the Committee for reprogramming before OJARS uses them?

The reprogrammings of reverted LEAA categorical funds for both the 1981 pay increase and the costs for additional positions in 1981 were reported to the Committee via the 1981 supplemental appropriation request and a notification of reprogramming in September 1981, respectively. The 1983 President's budget for the Research and Statistics appropriation identified the transfer of Law Enforcement Assistance reversionary funds to cover costs of the 1982 pay increase for the Bureau of the Census. The planned use of reversionary funds for the Public Safety Officers' Benifits Program in FYs 1982 and 1983 was addressed by the 1983 President's budget transmitted to Congress in February.

We do not view the use of reverted funds for items other than those previously addressed to be reprogramming. Part M, Section 1301(d), of the Justice System Improvement Act provides authority to obligate unused or reversionary funds for continuation projects or for purposes consistent with the Act. Since the funds were originally obligated for the purpose that Congress intended we do not view the use of reversionary funds as a reprogramming action. Section 1301(h) allows that funds made available under Parts B, C, and E of the Crime Control Act that are not obligated by a state or unit of local government can be used to provide up to 100 percent of the costs of any program or project. The projects at the state and local levels without the provision of additional funds would have been terminated prior to institutionalization. Funds have been obligated in a manner consistent with the authorizing legislation and appropriation acts. Moreover, the Office of the Deputy Attorney General has been apprised of specific project allocations.

To date block funds returned to State Criminal Justice Coordinating Councils (CJC's) for administrative phase-out assistance total $12.5 million ($7.8 million for 1981 and $4.7 million for 1982) with only $326,000 in reserve for future needs.

What is the current estimate of LEAA and OJJDP grants to revert to OJARS in FYs 1982 and 1983?

It is next to impossible to estimate with any degree of accuracy the amount of reversionary funds in 1982 and 1983. The major obstacle in calculating firm estimates is that we are dependent upon individual grantees for financial data. Obligation and expenditure data for each grant is submitted by grantees and is received from 45-150 days after the end of each quarter. Based upon financial data received to date an additional one to five million dollars in LEAA categorical funds could be returned and in OJJDP one to two million.

What plans does OJARS have for the reverting funds in 1982?

A list of the uses of reverted categorical funds in addition to the $13,670,000 returned and allocated to date will be used for the following purposes:

To avoid the necessity for supplemental appropriation requests (pay increases).

To reduce requests for new budget authority (PSOB).

To support implementation of specific priority improvements at state and local levels which without supplemental awards would have had to terminate their activities prior to conclusion of institutionalization of the projects. An example of this type of project is the Integrated Criminal Apprehension Program. This program required a minimum of three years to implement the various aspects and make lasting changes in police department operations.

To assure orderly phase out of existing programs and initiatives.

Reversionary block funds will continue to be placed in reserve for future needs of State CJC's for phase-out operating costs.

Reserved Funds

Last summer the Committee learned that the FBI's annual symposium on terrorism is largely funded by LEAA funds reserved several years ago.

How much is still reserved for the terrorism confabs at Quantico?

In April 1976, the Law Enforcement Assistance Administration (LEAA) and the Federal Bureau of Investigation (FBI) entered into an Interagency Agreement to establish a study action team to conduct research on terrorism at the FBI Training Academy, Quantico, Virginia and to provide training and technical assistance upon request to state and local governments in dealing with terrorist negotiations. The name of the project is Special Operations and Research Staff (SOARS).

The five tasks performed by the FBI under the Interagency Agreement are to:

Initiate and correlate research and data gathering relative to factors involved in decision-making during terrorist incidents.

Identify, catalogue and consult with, on a contractual basis, if necessary, outside experts of the various disciplines, concerning the dynamics of terrorism of interest to law enforcement.

Travel on-site as necessary and when requested to provide technical assistance to state and local police as well as FBI operational offices in dealing with terrorist negotiations.

Provide consultation at Quantico or on-site to state and local law enforcement agencies relative to terrorist incidents.

Provide training to local and federal law enforcement personnel in areas such as deision making and negotiation relative to terrorist incidents.

Technical assistance has been given to a significant number of law enforcement agencies, nationwide, by SOARS, including the New York State Police at the last Winter Olympics, and to the Puerto Rico Police at the Pan American Games. In addition, technical assistance has been given by SOARS at all major national hostage situations either on-site or at the Command Center in Washington, D.C.

Since the implementation of the program, members of SOARS have appeared before over 8,500 law enforcement officers at over 45 regional schools hosted by local law enforcement officers.

The unit (SOARS) has presented 25 hostage negotiation courses at the FBI Academy for over 420 law enforcement officers representing over 200 agencies. Originally the course was one week in length, however, since January 1979, it has been extended to two weeks in duration and has received accreditation from the University of Virginia.

OJARS accounting records currently show an unexpended balance of $30,000. However, we are informed that the FBI has about $15,000 of vouchers and bills which it will submit to us for payment. The remaining $15,000 will be used to conduct two hostage negotiation courses at Quantico with 15-20 law enforcement officers attending each course. The average cost per student to LEAA to attend the course is less than $300 because of the Bureau's policy of absorbing trainees' per diem at Quantico.

None of the remaining $15,000 in the Agreement is reserved for or will be utilized to conduct any anti-terrorism symposiums. The Bureau, at present, is not planning to conduct any future anti-terrorism symposiums for command law enforcement officers.

For what other programs or projects is LEAA money equireled away?

We have reclaimed a total of $13,977,000 from terminated categorical crime control grants during the period 10/1/80 to 3/31/81. Funds have been allocated for four basic reasons:

To avoid the necessity for supplemental appropriation requests (pay increases).

To reduce requests for new budget authority (PSOB).

To support implementation of specific priority improvements at state and local levels which without supplemental awards would

have had to terminate their activities prior to conclusion or institutionalization of the projects. An example of this type of project is the Integrated Criminal Apprehension Program. This program requires a minimum of three years to implement the various aspects and make lasting changes in police department operations.

To assure orderly phase-out of existing programs and initiatives.

A list of the programs and projects for which these reverted funds have been allocated follows:

Allocation of Reversionary LEAA Categorical Funds
(In thousands of dollars)

Reprogrammed to cover costs of additional positions in 1981	$1,594
Reprogrammed for 1981 pay increase	982
Integrated Criminal Apprehension Program	925
Anti-Fencing Program (STING)	300
National Victim/Witness Awareness Campaign and Victim/Witness Support Center	330
Family Violence Program	200
Police Accreditation Program	1,183
National Pre-Trial Services Resources Center	320
National Citizens Crime Prevention Campaign	800
Corrections Planning and Construction Guide	150
Corrections Accreditation Program	125
Jail Overcrowding and Pre-Trial Detention	150
Massachusetts State Arson Program	200
Atlanta Comprehensive Crime Prevention Program	100
Crime Prevention National Technical Assistance Program	160
Technical Assistance in Juror Utilization Management	150
Criminal Courts Technical Assistance	49
Criminal Defense Technical Assistance	40
First National Symposium on Court Management	19
National Symposium on Court Delay	47
State Court Financing Project	$25
State and Local Phase-Out Assistance	298
Prison Industries Enhancement	375
ATF Agreement for explosives investigation training program for state/local law enforcement officers	70
Glynco state/local training project	380
Statistical Analysis Center (SAC) program	100
CJ training institutionalization	93
1982 pay increase reprogramming (Census Bureau)	232
Maintenance of Public Safety Officers' Benefits (PSOB) Program level for 1982	1,799
Maintenance of PSOB program level for 1983	1,700
Subtotal, Allocated	12,896
In reserve for possible reduction-in-force costs in 1983 if Juvenile Justice Programs not funded	500
Contingent liability for Urban Crime Prevention project	274
Total, Allocated and In Reserve as in 2/28/82	$13,670

Questions Submitted by Senator Dennis DeConcini

Reduction in Juvenile Justice Programs

A review of the DOJ Budget for FY 1983 suggests a serious, if unconscious, policy contradiction. On the one hand, the Administration acknowledges a legitimate national interest in controlling crime. On the other hand, it seems to believe that the police power is, after all, reserved to the states and any real attack on the crime problem should be both conducted and funded by states and their local subdivisions. The opening statement affords some prime examples. For instance, you say "The juvenile justice programs have achieved remarkable results in reducing the number of status offenders in institutions...however, we also believe that the burden of funding the various juvenile justice programs should be shifted to the states and local levels..." The connections among narcotics, violent crime, and youthful offenders are well established. If there is a national interest in controlling violent crime and in effective drug enforcement, does it not follow that there is a national interest in reducing juvenile delinquency?

The reduction in the number of status offenders confined to institutions is a significant accomplishment and a worthy goal. It has, however virtually nothing to do with controlling crime and is an endeavor that appropriately may be undertaken at the state and local levels of government.

The program established by the Juvenile Justice and Delinquency Prevention Act focuses, to a major extent, on aspects of juvenile justice other than violent criminal acts. The thrust of the Act is to achieve the deinstitutionalization of status offenders, the separation of juveniles from adults in correctional institutions, and the provision of alternatives to the traditional systems for processing youthful lawbreakers.

The federal impetus behind state and local governments to improve the quality of juvenile justice has achieved results. We believe that the progress made by states and localities to upgrade their juvenile justice systems is evidence of a capacity and commitment to continue improvement despite the absence of federal funds.

At the same time, the Department continues to support research, development, demonstration, and evaluation of methods to prevent and reduce crime. Fiscal realities demand, however, that the Department concentrate the majority of available resources toward the achievement of its primary mission, the enforcement of federal laws.

Questions Submitted by Senator Arlen Specter

National Institute of Justice

What portion of the FY 1983 budget request for the National Institute of Justice (NIJ) is intended to fund basic research?

The NIJ's basic research effort in FY 1983 will focus on the causes and control of crime and criminal behavior with particular emphasis

on violent crime. Approximately $2.1 million, or 12 percent of the Institute's request for FY 1983 will support basic research.

Applied research?

The Institute's applied research program is directed at improving and strengthening the criminal justice system and its response to crime. In FY 1983, some $9.6 million or 55 percent of the budget request will support applied research.

Demonstration projects?

With the abolition of the LEAA, the Administration is not intending to support any further large-scale criminal justice demonstration projects. Therefore, the NIJ's FY 1983 budget request does not include funds for such projects.

Evaluation?

The Institute's evaluation activities include the evaluation of Institute-sponsored field tests and of state and local criminal justice programs, policies or legislative initiatives which are likely to have implications for other jurisdictions. In FY 1983, $1.6 million or 9 percent of the Institute's budget will support independent evaluations.

Please supply for the record a listing and description of research to be funded and the amount to be devoted to each project.

The following list of projects represents the Institute's plan for FY 1983 at its current stage of development. Since the Institute is in the midst of its planning cycle, some revisions and refinements of this list are likely.

1. Continued long-term, multi-disciplinary research on violence. ($500,000)

2. Follow-on research in the use of weapons in crime. ($500,000)

3. Examination of the selective incapacitation of career criminals. ($375,000)

4. Continued study of the relationship between drug use and crime. ($325,000)

5. Analysis of robbery and homicide control strategies. ($250,000)

6. Program of research directed at improving the measurement of deterrent effects of criminal justice initiatives. ($700,000)

7. Research investigating the improved pretrial handling of potentially dangerous defendants. ($250,000)

8. Development of alternative police strategies for maintaining order. ($300,000)

9. Research aimed at increasing the efficiency of police operations. ($300,000)

10. Analysis of efforts to reduce court delay. ($250,000)

11. Continued research directed at the improved handling of victims. ($200,000)

12. Program of research and development for the purpose of improving the measurement of performance for criminal justice agencies. ($700,000)

13. Research studies for the improved reliability and accuracy of criminal justice research and evaluation methodological techniques. ($700,000)

14. Development of strategies for the improved management of prisoners. ($250,000)

15. Analysis of alternative correctional strategies. ($300,000)

16. Examination of parole use and improved parole supervision. ($600,000)

17. Continued evaluation of on-going field tests. ($600,000)

18. NIJ share of support for new field test sites. ($550,000)

19. Independent evaluation of new field test. ($450,000)

20. Continued unsolicited research program to support innovative approaches to justice problems. ($1,000,000)

21. Continuation of Visting Fellowship Programs with the award of three new fellowships. ($160,000)

22. Continuation of the Graduate Research Fellowship Program through support of 10-12 doctoral dissertations in criminal justice. ($140,000)

23. Development of program models, test designs and program designs. ($1,000,000)

24. Identification and evaluation of innovative state and local criminal justice programs, policies and legislative initiatives. ($900,000)

25. Continued support of the Law Enforcement Standards Laboratory (at the National Bureau of Standards). ($900,000)

26. Continued support of the Technology Information Center (at the International Association of Chiefs of Police). ($600,000)

27. Support of special national workshops which transfer significant research findings to criminal justice practitioners. ($700,000)

28. Continued support of the National Criminal Justice Reference Service, the Institute's legislatively mandated clearinghouse. ($2,500,000)

29. Publication of NIJ research, evaluation and program development documents. ($300,000)

30. Continued research in the forensic sciences. ($300,000)

31. Research on criminal justice system problems which will build directly on the results of soon-to-be-completed projects. Four or five such follow-up projects are expected. ($1,200,000)

In the absence of a Director for the National Institute of Justice, who is exercising the Director's grant and policy authority?

Dr. James L. Underwood is the Acting Director for the National Institute of Justice.

What limitations, if any, on the exercise of such policy is present with only an Acting Director and not a presidential appointee?

The Acting Director exercises the same grant and policy authority, under appropriate delegations of authority, as would be exercised by a presidential appointee.

Bureau of Justice Statistics

What different types of activities are intended to be supported by the FY 1983 budget request for the Bureau of Justice Statistics (BJS)? Please supply for the record a listing and description of activities to be funded and the amount to be devoted to each project.

The most comprehensive discussion of these issues is contained in the BJS Five Year Program Plan which was released in January 1982. The Plan, which is consistent with the current JSIA legislative mandate, updates the previously issued Plan for Statistics - FY 1976-81, and comprehensively describes the programmatic goals for BJS and indicates the scope of programs to be considered by BJS during this period.

A summary of these proposed areas of BJS activity is set forth below. Estimated amounts of program dollars for FY 1983 are indicated at the end of each program description. In considering these funding estimates it should be recognized that, in light of the nature of the BJS mandate, a significant part of BJS products and activities are supported by in-house staff and accordingly funded through administrative fund appropriations.

Major programmatic efforts during FY 1983 will be directed toward support of:

(1) The collection, analysis and dissemination of national scope data describing the rates and characteristics of crime and criminal victimization; the operations of state courts, prosecutors and defenders; and the functions, workload and operations of correctional institutions and probation/parole authorities.

In this area, support will be provided for continuation and upgrading of the National Crime (victimization) Survey, and for expanded efforts relating to analysis and dissemination of victimization data. Support will also

be provided for the development, refinement, and analyses of statistical series describing state court caseloads, prosecutor management information, defense-related data, adult and juvenile prison, jail, probation and parole data and state and local employment and resources information. Efforts will also be supported to increase the level of data analysis and frequency of report publication.

Estimated program funding for FY 1983: $8,902,000

(2) The provision of assistance to state and local agencies to upgrade state and local collection, analyses, utilization and reporting of criminal justice data.

In this area, fiscal and technical support will continue to be provided in order to maintain a network of state statistical agencies (SACs) capable of collecting and analyzing statistical data for state use and/or for aggregation at the national level. Support for state agencies to manage UCR submissions will also be provided. Support will also be provided under a program of cooperative agreements to enable state or local agencies to implement data collection and analysis techniques and to produce specific data tabulations for national aggregation.

Estimated program funding for FY 1983: $2,665,000

(3) The collection, analysis and dissemination of data describing the federal justice system, characteristics of the federal offender, and emerging areas of federal criminal concern (e.g., high technology computer crime).

Under this program, which was initiated in response to the expanded BJS mandate as set forth in JSIA, BJS will support efforts to develop comprehensive federal criminal justice transaction statistics and to analyze this data base in order to describe both the overall federal justice system and individual issues presented therein. A Compendium of Federal Criminal Justice Statistics will be issued as a single-source reference document, and individual analytic reports will be prepared. Preliminary efforts will also explore development of statistical data series describing the federal civil justice process. Support will also be provided for development and implementation of new techniques to permit collection and analysis of data on emerging areas of criminal concern such as computer crime, crimes against business and government fraud. To the extent feasible preliminary data collection will be initiated in the area of computer crime.

Estimated funding for FY 1983: $400,000

(4) The continuing review, evaluation and redesign of major statistical series maintained by BJS or other federal agencies.

The objective of this activity is to ensure quality, cost-control and policy responsiveness in statistical data

series. Specifically a multi-phase in-depth assessment and review of the UCR program is being undertaken jointly with the FBI to develop alternative crime classification and reporting systems. A major project to review and redesign the National Crime (victimization) Survey in response to methodological, policy, and analytic issues raised by the National Academy of Sciences will also be continued.

Estimated funding for FY 1983: $1,265,000

(5) The analyses of major statistical data bases and related research studies and the production and dissemination of reports, bulletins, briefing materials and reference documents describing data findings, policy implications and areas of data utility.

A major activity in this area is the regularized monthly publication of the BJS Bulletin. The BJS bulletin provides timely non-technical information derived from BJS and other data bases for use by the Congress, the business and academic communities and state and local criminal justice policy officials. A major Report to the Nation on Crime and Justice is also scheduled for release during FY 1983. This will be a comprehensive document describing the criminal justice process and discussing statistical findings relevant to the public's concern regarding crime and the criminal justice system. Briefing materials will also continue to be prepared in response to individual requests (previous presentations were made, for example, in the OMB National Indicators Series) and ad hoc analyses will be undertaken upon request, where appropriate.

All funding for this project will be from administrative funds.

(6) Assisting states in developing and/or modifying information system capabilities to facilitate statistical data collection.

Major emphasis here will be placed on support for the development, transfer and implementation of technical procedures, standards and operational modules to upgrade criminal justice information system capabilities. This is necessary in order to facilitate timely, accurate and comprehensive collection and maintenance of statistical data at the state and local level. Efforts will also be made to identify technical impediments to state data submissions and to development of techniques to improve the quality and timeliness of such submissions. Special emphasis will be placed on increasing the quality and quantity of probation, parole and corrections data needed to support national correctional statistical series.

Estimated program funding for FY 1983: $625,000

(7) Ensuring the confidentiality, privacy and security of identifiable information and supporting the review and analysis of criminal justice information policies.

In this area current efforts will be maintained to ensure confidentiality of statistical and research data and to develop techniques to facilitate such protection. Programmatic efforts relating to the review and analysis of state legislative trends in the area of privacy, security and confidentiality of criminal justice information will be continued and the Compendium of State Legislation will be updated and revised. Emerging issues relating to criminal justice information (e.g., private employer and/or media access) will also be identified and documents analyzing the legal, technical and operational implications thereof will be released. These efforts are intended to provide federal and state criminal justice decision makers with resource information reflecting changing public attitudes and legislative concerns. Programmatic efforts will also be continued in order to provide input to national policy decisions regarding issues such as interstate exchange of criminal history information.

Estimated program funding for FY 1983: $325,000

(8) Expanding the utilization of BJS statistical data by increasing user awareness of data, adapting data presentations to better respond to user needs and establishing ongoing liaison with the statistical, academic and policy-making community.

Support will be provided in this area for the maintenance of a criminal justice data archive and information network to encourage public utilization of data files developed by BJS and other statistical and research organizations. Training in use of the files will also be provided. Efforts will also be made to identify user needs for statistical data and to regularly publicize the availability of BJS data tapes, analyses, and services. Support will be provided to criminal justice and statistical professional membership organizations in order to develop lines of user input for BJS program planning.

Estimated program funding for FY 1983: $385,000

In the absence of a Director for the Bureau of Justice Statistics, who is exercising the Director's grant and policy authority?

Mr. Benjamin H. Renshaw, Deputy Director of the Bureau of Justice Statistics, is the Acting Director for the Bureau of Justice Statistics.

What limitations, if any, on the exercise of such policy is present with only an Acting Director and not a presidential appointee?

The Acting Director exercises the same grant and policy authority, under appropriate delegations of authority, as would be exercised by a presidential appointee.

Office of Justice Assistance, Research, and Statistics

Is the request for FY 1983 budget authority for the Office of Justice Assistance, Research and Statistics (OJARS) characterized

in the Department's February 8, 1982 press release as an OJARS request, in contrast to all other components of the Department's budget requests which are termed Department requests, in recognition of the independence of the OJARS constituent agencies to operate under the "general authority" of the Attorney General?

The difference in wording for OJARS and other major areas of the Department is totally inadvertant. Budget requests from the Office of Justice Assistance, Research, and Statistics (OJARS) are fully reviewed by the Department and the Office of Management and Budget. Only the Parole Commission budget requests are outside the purview of the Attorney General. OJARS is independent of the Department only to the extent that its grants are not subject to review or approval.

During the ongoing period of reductions-in-force and layoffs, is the Department recruiting or hiring from outside itself to fill positions?

The recruiting effort to fill job vacancies in the Department varies, depending on the type of position to be filled. When the hiring unit has reason to believe that the necessary skills or experience can be found within the Department, recruiting efforts are confined to the Department. However, recruitment for positions requiring more technical or uncommon skills is direted more broadly. Individuals facing separation through reduction-in-force and who possess the necessary qualifications would be considered for any positions for which they apply. It should also be noted that a substantial number of the positions within the Department are in the "excepted service" (e.g., attorney positions) and are therefore exempt from the competitive procedures utilized in the hiring to fill other vacancies.

SUBCOMMITTEE RECESS

Senator WEICKER. The subcommittee will recess.

[Whereupon, at 10:50 a.m., Wednesday, March 3, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

WEDNESDAY, MARCH 10, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:54 a.m., in room S-146, the Capitol, Hon. Lowell Weicker, (chairman) presiding.

Present: Senator Weicker.

DEPARTMENT OF JUSTICE

IMMIGRATION AND NATURALIZATION SERVICE

STATEMENT OF ALAN C. NELSON, COMMISSIONER

ACCOMPANIED BY:

JAMES A. KENNEDY, ACTING COMPTROLLER
THOMAS N. PERRELLI, DIRECTOR, PROGRAM PLANNING AND BUDGET STAFF
ROSS C. CORY, ACTING CHIEF, BUDGET FORMULATION GROUP
CHARLES R. NEILL, CONTROLLER
MICHAEL J. ROPER, DEPUTY DIRECTOR BUDGET STAFF

PREPARED STATEMENT

Senator WEICKER. Our first request is that of the Immigration and Naturalization Service. The amount requested is $524,599,000, an increase of $58,735,000 over the 1983 base, and provides for the administration and enforcement of laws relating to immigration, naturalization, and alien registration.

Appearing on behalf of this request is Alan C. Nelson, the Commissioner, who is accompanied by James Kennedy, Acting Comptroller; Thomas Perrelli, Director of Program Planning and Budget Staff; Ross Cory, Acting Chief, Budget Formulation Group; Charles Neill, Controller; and Michael J. Roper, Deputy Director, Budget Staff.

Mr. Nelson, we will be pleased to accept your statement in its entirety in the record, and why don't you proceed and summarize it for us.

[The statement follows:]

STATEMENT OF ALAN C. NELSON

I am pleased to have the opportunity to appear before you in support of the 1983 budget request for $524,599,000 and 10,661 positions. Today marks my first visit before members of the Subcommittee as Commissioner of the Immigration and Naturalization Service, and I hope that it also signifies the start of a mutually beneficial relationship between myself, the Service and Congress.

I shall focus my testimony on the broader issues of strategy and priorities, which, once agreed upon, will provide the basis for developing the specific detail to implement and administer individual INS programs.

The 1983 budget request for the Service consists of the current services funding level with the addition of one new program activity entitled Reception, Processing, and Care for Cuban and Haitian entrants, which is being transferred from Health and Human Services. The additional enforcement-related resources that were provided to the Service in the 1982 budget amendment provide money and positions that carry over into 1983, which will permit the Service to better carry out its mission.

The newly transferred activity provides for the processing, care, maintenance security, transportation and initial reception and placement in the United States of Cuban and Haitian entrants. By Executive Order 12341, this activity was transferred from the Department of Health and Human Services to the Department of Justice. The 1983 budget request includes 57 positions and $58,735,000 to administer this program. The 1983 budget request also includes $37,307,000 to fund uncontrollable cost increases.

My goals as Commissioner of the Immigration and Naturalization Service are: to improve management procedures, promote the policy leadership of INS, and implement certain legislative changes that I hope to see enacted. My management philosophy is to be open, accessible, and responsible to members of the Congress, public and INS staff. The focus of my efforts in the coming years will be to streamline existing operations, continue and expand our automation efforts, and continue implementing management improvements which have already begun.

I believe that it is important for INS to resume policy leadership on immigration matters. The area of immigration has received much attention recently, and all indicators predict that this attention will likely continue in the foreseeable future. The Administration has stressed immigration as one of its priorities---a priority of establishing sound policy leadership within the agency whose mission it is to enforce the laws relating to immigration. This is an

integral part of the President's plan to regain control of our borders and establish an orderly immigration process.

The Administration's Omnibus Immigration Control Act has been introduced in both houses of Congress. This legislation addresses the most serious immigration problems confronting our Nation: continuing illegal immigration to the United States, mass arrivals by sea, and procedural problems under the law that preclude prompt decision-making and review of claims to enter or remain in the United States by visitors, undocumented aliens or asylum applicants. The Act would curtail illegal immigration through amendments that will:

- provide strict sanctions for employers who knowingly hire illegal aliens;
- permit illegal aliens residing in the United States prior to January 1, 1980, to apply for the new status of temporary resident alien; and
- establish an experimental, two-year program for the admission of Mexican nationals for temporary employment in jobs for which there is a shortage of domestic workers.

The Act would curtail mass illegal arrivals by sea through amendments that will:

- permit the President to declare an "immigration emergency" and invoke certain new powers during the emergency period to effectively respond to mass migration of visa-less aliens;
- clarify the law by making it a criminal offense for individuals to bring visa-less aliens to the United States;
- streamline the procedures for determining the admissibility of undocumented aliens and for making asylum determinations;
- expedite the appeal and review process in deportation cases; and
- repeal the Cuban Refugee Adjustment Act of 1966, while allowing undocumented "Cuban/Haitian entrants" to apply for temporary resident alien status.

Finally, to improve legal channels under which immigrants are admitted to the United States, the Act will:

- create separate annual ceilings for numerically restricted immigration from Mexico and Canada and raise them from 20,000 to 40,000; and
- streamline the process of labor certification which protects American workers from adverse impacts before foreign workers are granted immigrant visas.

The Subcommittees in both houses have worked diligently and made a comprehensive record on which to base reform. I hope Congress will enact these vital legislative changes this Spring.

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At present, we are shifting our priorities and designating resources to ensure maximum deterrence of illegal alien entry. The additional resources which you provided in the FY 1982 budget amendment are enabling us to target enhanced enforcement efforts at ports of entry and those Border Patrol sectors experiencing the greatest number of attempts at illegal entry. We are targeting INS investigative resources to sites of significant employment of illegal aliens, with the goal of curbing their access to jobs. In addition, the much needed detention and deportation funds have supported our firm detention policy, which, along with the interdiction program, has dropped the known entries of illegal Haitian migrants from 1,178 per month during the first four months of 1981 to 110 per month this year.

The continuing resolution under which we are presently operating contains a restriction on the number of aliens that may be held in the Krome, Miami, Detention Center. We are, however, opposed to a restriction on the number of aliens which may be held in the Krome Detention Center, such as was contained in the Continuing Resolution. We do not believe that an absolute limit should be written into law. This would prevent a flexible response during emergencies. We will make every effort to hold the population at a reasonable level. In fact, we have reduced the Krome population to 600 from 1,500, and intend to process the remainder as quickly as possible.

However, we cannot be blind to problems on our doorste . As you know only too well, we have suffered from a lack of preparedness in the past. Given the less than stable situation in the Caribbean and South America, there could be an influx into Miami in the near future.

If that should happen, the most reasonable place to house them is Krome---a facility which is available, is in current use and is being improved. We do not want to have to be in a position of putting up a "tent city" simply to prevent the population from exceeding a specific number. Krome is intended to be a turn-around center where aliens are detained for health purposes and screening purposes. Any potential increase in that population should hopefully be temporary in nature.

We are in need of a permanent facility, designed for a population of about 2,000 aliens. This is needed to handle the results of our current and future increased enforcement efforts.

In summary, I look forward to working closely with the Committee and I give you my commitment to provide strong leadership and aggressive implementation of the philosophy and priorities I set forth earlier in this statement. I thank you for your interest and attention and before I finish, I would like

to mention that just this morning, the Attorney General sent a letter to the Chairman of the Subcommittee relating to the urgency of a permanent detention cneter for the Immigration and Naturalization Service and requested that the restrictive language relating to the use of the Krome-North site be lifted. With the Chairman's permission, I would now like to give Mr. Rooney an opportunity to elaborate on thes issues on behalf of the Attorney General.

BUDGET REQUEST

Mr. NELSON. Thank you, Mr. Chairman. It is a pleasure to be here for the first time as the Commissioner before your committee. We look forward to a continuing and good-working relationship with you, as I know you have had with the staff in the past. I will summarize my statement.

As stated, the fiscal 1983 budget request is $524,599,000 and 10,661 positions. This is a continuation of the 1982 level, with several additional things: $37 million plus for the uncontrollable cost increases, and $58,735,000 and 57 positions in the transfer from HHS of the Cuban/Haitian program. We feel this is a good budget and one that can allow us to meet the mandates of the Service.

Since I became Commissioner, I have made a number of policy moves that I think are essential for the Immigration Service, which includes better management techniques. We have good people. They are dedicated. We need to firm up our leadership. With a 2½-year gap, it is a difficult period, and we look forward to a period of stability.

Tied into that, Mr. Chairman, also is a policy reassertion of the Immigration Service to be sure we are actively asserting, along with the Department of Justice, effective immigration leadership. Of course, we will work very closely with Senator Simpson's subcommittee and Congressman Solarz's Subcommittee on Immigration to do that.

Tied into that further is the administration's immigration reform legislation proposal on that has been before Congress. There has been extensive testimony on immigration reform in both Houses. We know that the matter is moving forward, and we look forward to prompt enactment of immigration reform legislation, which we are convinced the administration—and the Congress—believes is absolutely necessary at this time. The record has been built; all interest groups, and others, have had a full opportunity to testify. A great deal of study has gone on, and we certainly think it is time now. I won't summarize the issues of the legislation which I think are quite well known.

We do feel as part of our budget also that we recognize the need for effective enforcement efforts, particularly in the field of employment, to be sure jobs are held by American citizens and those entitled to work here, and the illegal alien control is taken care of. We think that many efforts are underway that will enhance our efforts there, including the budget items in filling positions and getting our work force up to the appropriate levels.

Likewise in the detention area, there is money in the budget to take care of the administration's detention policy which we think has been an effective and necessary part of immigration reform to deal with mass arrival immigration problems.

I will leave the summary at that point, Mr. Chairman, and will be pleased to answer any questions.

CONSTRUCTION OF PERMANENT DETENTION FACILITY

Senator WEICKER. In the budget amendment submitted in September, INS requested $35 million for the construction of a permanent detention facility. These funds were included in the Senate version of the continuing resolution but later dropped in conference.

What is the status of your plans to construct a new facility?

Mr. NELSON. Mr. Chairman, we certainly believe there is a very important need to do that, and it should be located in the south central part of the United States so it would be readily accessible for transportation and other needs.

We have been exploring a number of sites in Oklahoma, Louisiana, and other locations. We are proceeding to explore that need, and certainly it is absolutely essential that we have those funds in order to be able to have that long-term detention facility to relieve some of the pressures on Krome, Fort Allen and existing facilities, to turn those into short-term processing centers, which they should be, and to have an effective long-term site.

Senator WEICKER. Will a supplemental for 1982 or an amendment to this budget be submitted to Congress?

Mr. NELSON. I believe that is our intention to do so.

POLISH REFUGEES

Senator WEICKER. It was reported earlier that the United States has made a decision not to encourage Polish emigrants to apply to the United States for refugee status following the declaration of martial law in Poland. I realize that we have doubled the ceiling on refugees from all of eastern Europe. I have several questions on that.

First, how do the responsibilities of INS differ from those of the Department of State in these matters?

Second, what is the number of applications which have been received since the declaration of martial law and how many requests have been processed and approved?

Mr. NELSON. Let me answer that, first of all, generally. We have been setting up regular meetings between myself and the Acting Deputy Commissioner of INS with the refugee coordinator for the Federal Government of the registry program and the Assistant Secretary for Humanitarian Affairs to discuss and coordinate all aspects of refugee matters.

I think that has been lacking in the past, and I think those efforts will be very productive.

Now, on the specific numbers, I know there have been meetings in Vienna where most of the refugee processing is taking place. As I understand it, the United States would take about 6,000 Polish refugees, and there are other countries—Australia, Canada, South Africa, Switzerland, New Zealand—have numbers they have agreed to take.

As I understand it, and I don't have, certainly, all the details, the numbers have not been high at this point from Poland. Those we get are being processed in an orderly fashion under the UN guidelines.

Senator WEICKER. What is the number of applications currently pending?

Mr. NELSON. According to our figures, Mr. Chairman, about 2,000 are pending, and 3,000 of these 6,000 Poles that the United States has agreed to take have been approved.

Senator WEICKER. What does that mean? 3,000 approved, 2,000 pending, 1,000 more that could be taken?

Mr. NELSON. Could be taken, that's right.

Senator WEICKER. Have your officials visited the refugees in Austria?

Mr. NELSON. No; I have not personally, but we do have several offices in Europe. They have been involved. I recently received a report from Mr. Vine, the program head of the State Department, on his visit there. He was very complimentary of the INS people in Europe that have been involved in this.

AUSTRIAN COMPLAINTS ON PROCESSING REFUGEES

Senator WEICKER. It seems to me somewhere in the back of my memory in the last several days I was listening to some radio programs where they were complaining about the United States in this regard. Have you received any complaints of the Government of Austria as to our slowness? I remember very well listening to something.

Mr. NELSON. I didn't hear that certainly, but I know there is concern. The concern is, if there is a larger number, to be sure the Austrian Government doesn't have to face the problem.

Again, I know Mr. Vine's trip there in the last month was to be sure that things were moving properly, and the information I have is that basically the Austrian Government is satisfied.

Senator WEICKER. What are the latest monthly reports on the numbers of Haitian immigrants?

Mr. NELSON. The figures I believe were about 40 in February and January 1982; November/December 1981, there was approximately 40 per month illegally that we were apprehending. Some were getting through undetected. But those figures compared to the 3 months a year earlier—we had approximately 4,000 compared to 400 for the comparable 3 or 4 month period. We are now at a level of about 40 per month.

Senator WEICKER. Why do you think there has been a reduction?

Mr. NELSON. We think, Mr. Chairman, there are three primary elements: The overall administrative detention policy has been effective and the knowledge in Haiti and other locations that we will detain those in undocumented status; the interdiction program has been effective, even though there have been only two vessels interdicted, but the knowledge of that is effective. A third element, I think, is that the State Department has been in contact with the Government of Haiti to be sure that the latter is not encouraging the smuggling operations, and the last element is that through the Department of Justice's efforts the legal processing and our legal posture in court has improved so that we aren't losing every case. We think a combination of those things has resulted in the improvement.

I might mention, a trial is scheduled to start next Monday in Miami on the basic underlying issues as to detention. The U.S. Government has made extreme efforts, even though we haven't had the credit we think we deserve, to move the hearings.

In the past, it has always been in the interests of the aliens to delay as long as they could because they were usually out on the street and delay was in their interest. The processes are such that the delay served their interest. Now, particularly with detention, that is no longer the case, and we have made great efforts to try to get volunteer lawyers to represent the Haitians so that they can have their individual hearings on exclusion and on asylum.

The Attorney General wrote the president of the Dade County bar. Through the efforts of the Attorney General and Judge Spellman in the district court of Miami, they have obtained over 200 private bar representatives from Florida to represent the Haitians, in addition to the public interest groups that are involved.

We think the key here is the legal process to determine the rights of the individuals either to remain here under asylum, or to be returned to their homeland.

Senator WEICKER. How many Haitians are being detained at Krome North and Fort Allen?

Mr. NELSON. Currently, Mr. Chairman, we have approximately 600 at Krome and about 800 at Fort Allen, Puerto Rico.

Senator WEICKER. I understand the agreement with Puerto Rico expires this summer.

Mr. NELSON. That is correct. August is the termination date, and that also ties into some litigation in the first circuit. We have had some preliminary discussions with Governor Romero of Puerto Rico concerning the whole posture of termination or possible extension. That is still in the very early stages of discussion.

CENTRAL AMERICAN REFUGEES

Senator WEICKER. With the political unrest in Central America, has there been a marked increase in the number of refugees?

Mr. NELSON. There has been certainly, and I might answer that in the context of asylum claims. A few years ago we had roughly 5,000 asylum claims per year which is a very small number. We are now seeing 100,000 per year, obviously a new issue that is being expanded, many claiming asylum months after they arrive and are apprehended. Certainly the influx, the constant flow from Mexico is close to 1 million Mexicans coming across illegally. There were 15,000, close to 16,000, El Salvadorans in fiscal year 1981. The total number of deportable illegal aliens apprehended was close to 1 million in fiscal year 1981.

I do think we are seeing increased numbers from Central America. Exact numbers are unknown. Of course, it is difficult to tell when we have not apprehended many.

KROME DETENTION FACILITY

Senator WEICKER. Language added to the continuing resolution provides that the Attorney General shall exercise his best efforts to insure that the population housed at Krome North shall not exceed 525 after March 1.

Can you tell me how many square feet per detainee you have allowed at Krome versus Fort Allen?

Counsel advises me the Florida Senators have been concerned over the interior space per detainee.

Mr. NELSON. I don't have the figures, Mr. Chairman, on the square footage. We will certainly provide those to you. I might make a couple general comments, if I may.

We had, back in September/October, about 1,500 to 1,600 at Krome. That clearly was very crowded. We have reduced that population to 600. The Bureau of Prisons has been very helpful in working with us, and in giving us guidance and direction to improve recreation facilities and the facility itself.

I have been there on two occasions. Certainly each individual has a bed. The food is catered. There are recreation facilities. We think it is certainly maintained properly and is kept clean and in good order.

Now, on the number there, concerning the Florida delegation, and as stated in our written testimony, we would certainly encourage the Congress not to fix an absolute limit. It creates a very difficult situation where if we had courts involved—an earlier one of the Federal judges felt 1,000 could be maintained there. We, of course, dropped far below that. We currently need to move several hundred Haitians from the New York Bureau of Prisons' facilities through a court order that BOP has. We need to move them to Krome. We are, of course, prevented by this cap from doing so.

We very much encourage that we not have an absolute numerical limit but have the flexibility to house the number that is necessary. We recognize the concerns of the Florida delegation. The problems, of course, in Florida, where the people have been released into the community, are that that creates a whole set of different problems. We will provide to you, Mr. Chairman, the spacing figures. We believe spacing figures, and there is a great deal of open space there also, are adequate. They are housed in buildings. It is a former Nike base and a well-constructed building. They have bathroom and shower facilities. We did have a lot of portable lavatories that have now been removed.

[The information follows:]

DETAINEE SPACE AT KROME V. FORT ALLEN

The current population of Krome is 617 detainees. Each detainee currently has approximately 50 square feet of dormitory space. This does not include indoor or outdoor recreational areas. Under emergency conditions the population may be increased to 1,000 detainees.

The square feet of dormitory space provided per alien at Fort Allen is the same as Krome.

RECEPTION, PROCESSING, AND CARE ACTIVITY

Senator WEICKER. The responsibility for the reception, processing, and care of Cuban and Haitian immigrants has been transferred to the INS from the Department of Health and Human Services. For this purpose $58,735,000 is budgeted.

Do you know how that compares to the 1982 appropriations for this program?

Mr. NELSON. I will ask Mr. Kennedy to respond. You are correct, there was a determination that that program be transferred to INS, and we accept the responsibility. A good part of that, of course, is money that will be contracted back to Health and Human Services and other agencies for the programs.

Mr. KENNEDY. In attempting to get the exact match of what has been transferred, we found there is such a mixture that we cannot go back to HHS and get an answer for the record. There are too many mixtures.

INTELLIGENCE PROGRAM

Senator WEICKER. All right.

How is the Service's intelligence program able to identify unqualified aliens prior to their entry? And how many of these aliens were identified last year and subsequently apprehended?

Mr. NELSON. We probably don't have specific answers in advance. We certainly offer to provide that to you.

I might again comment generally. I know in my short tenure that we have an excellent forensic lab. I think a model is being used by a number of services.

Obviously, with the number of people involved, it is a difficult problem and one we have to do in a very balanced operation. I am not sure if I follow your question.

BORDER ENFORCEMENT

Senator WEICKER. Let me go on to the last point. You referred to the legislation that the administration is submitting to both Houses. I want your point of view on where the most effective point is to tackle this problem. That is of the utmost concern to this committee.

It seems to me there are questions that can be raised as to whether or not you are ever going to have enough personnel to handle the problem at the border. Or is the problem one, as I alluded to here, that can be handled at that point from which the aliens come, if you have knowledge of that fact? Or are both of those really 50-, 40-, or 30-percent effective, at best, as compared to trying to control the problem at the workplace here in the United States? Where do you think the problem can best be handled?

Mr. NELSON. I think your questions are all-inclusive. They contain, really, all the elements. I think the answer is there is no one single point. It is a balance; it must be a balance. You must have effective border enforcement, but I think with the 2,000-mile boundary of Mexico, the 3,000- or 4,000-mile boundary of Canada, and the 6,000 or

8,000 miles of seacoast and the nature of American society—we don't build walls or have armed guards, it wouldn't be feasible even with 5 or 10 times the people to search the border.

We can always use more vehicles, helicopters, and people and do a better job. We are doing a good job at the border. You are never going to control it all.

The foreign intelligence is an interesting thing. I think to a limited degree you might agree. For example, I know there were contacts with the Government of Haiti to be sure they were at least cooperating and not turning their heads and allowing smuggling. We had a lot of dialog with Mexico. I think we can do that. I doubt we can deter a lot from inside of the countries, but, again, some of that—I think it is an excellent point—we should pursue. I think the workplace, again, is a very necessary element that we don't have in the law currently. We have anomalies, as you know, where it is illegal for somebody to come into the United States in an illegal status, but it is not illegal for an employer to hire them. We, in a sense, acknowledge and allow this to go on.

We need a national policy that clearly states that thou shalt not hire an illegal alien. We think that is a keystone to the administration's bill, which we understand what Senator Simpson and Congressman Solarz plan to introduce. We can demagnetize that, and that will be the largest thing. I do believe it is a combination and balance of all things.

INTERIOR ENFORCEMENT

Senator WEICKER. What do you have in the way of enforcement personnel, for example, that are available to go to the workplace—you are not prevented from doing that—and find out whether or not the place has illegal aliens? How many people do you have devoted to that task?

Mr. NELSON. We will get the numbers here. There are two elements I would like to emphasize. This is a good question, how many resources do you need to effectively enforce. It is hard to know. We believe, and I believe, there is some comparison with our traffic laws where there is a recognition of the law. We expect that. We have arrangements with a lot of employers currently. We work with major employers who screen their work force. So we see the voluntary compliance as a very significant part.

Then, of course, we know already a lot of flagrant violators, and having some grips in the law would enable us to make some real efforts which would be effective deterrents. Also we would be generating some income on these fines, mainly talking about civil penalties. Obviously, if we have a good employer sanctions law, we would need additional help. Currently, we have roughly 800 in our investigations area. There are a number of vacancies which we plan to fill in the next year. We have 300 working in what we call status verification. Actually, we are talking about 1,100.

BORDER ENFORCEMENT

Senator WEICKER. How many are devoted to border patrol?

Mr. NELSON. In the border patrol, we have currently in place 2,366 of the 2,690 authorized positions. We are in the process during this year of filling the balance of these positions. Of course, some of the border patrol are involved in the employer activity, particularly along the border.

Senator WEICKER. That is something I wish you would work on with my staff. Sometimes we can do things here within the law as written. I hope we do get a new law passed. Certainly, it is going to have my support, but I don't see how we are going to control this thing at the borders. I am sure Senator DeConcini, and others from the southwest and Florida, feel that is where the personnel ought to be, but then the problem exists not only there but subsequently in the northeastern cities, midwestern cities as to the employment problem.

Mr. NELSON. You are absolutely right.

Senator WEICKER. I want to see a little more emphasis put on the employment side. I will be very candid with you, you are right, we can have a presence there. But anyone who is really determined is going to do their thing.

Mr. NELSON. There is one thing I am sure you will be interested in that we are working on and hope we can increase, especially now with the employment levels we have, particularly in the large urban areas. We know there are a lot of illegal aliens that are earning very good wages. It is not just minimum wage. This has been in existence before, but I don't know that it has been as effective as it can or should be. We would make more concerted efforts in those areas on some of the high paying jobs to go in there and remove the illegal aliens and, at the same time, try to coordinate with the State employment service, Department of Labor, some of the local groups, to, in effect, provide some American citizens or permanent aliens entitled to work so that the employer has somebody going in these jobs.

It is a constant issue. The employers say, "I can't get the people to fill those jobs." That is a tough question and a debatable one. We hope, along the line of your thoughts, to try to show some direct payoffs so we can get some unemployed Americans into those jobs.

Senator WEICKER. I think you have to have the personnel. Admittedly, there has to be personnel to do this job; it is a difficult job, but I want to see now a concentration in this area rather than in the border area. The border areas have received regular attention by this subcommittee over the past several years. I think the time now has come to pay attention to this other aspect of the problem.

ADDITIONAL COMMITTEE QUESTIONS

I have other questions which I will submit for the record. Thank you very much.

Mr. NELSON. Thank you, sir. We appreciate it.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

Border Patrol

The justification (page 11) indicates 100 more workyears in FY 1983 for Border Patrol activities than in FY 1982. Would you explain what these positions are? Are they temporary inspectors?

These are not temporary positions. The enforcement enhancement package contained 160 new positions but only 57 workyears. We are now asking for funding in FY 1983 for the remaining 103 positions.

Personnel at Krome

Since the enactment of the Continuing Resolution, have you filled all of the additional detention positions for which funds were appropriated, or do you still have employees detailed to Krome North and Fort Allen?

Of the 68 detention, deportation and support positions authorized, INS has hired 42 new employees under the Continuing Resolution. They are currently receiving training and should be fully available within 60 days. The hiring process is continuing for those positions yet unfilled.

INS is continuing to detail officers to both facilities until all the officers are on the job and properly trained.

How many Border Patrol officers are detailed to Fort Allen and Krome North?

Fourteen border patrol agents are detailed to Fort Allen and 41 to Krome North.

Seized Property

The budget indicates that more than 2,800 vehicles, worth over $6 million, were seized during FY 1981. For the record, will you provide the Committee with information on the disposition of this property?

Of the 2,800 vehicles seized during FY 1981, 163 were converted to official use by INS. The remainder were turned over to GSA for disposal. Some of those turned over to GSA were subsequently converted to government use by other agencies and the balance were sold at public auction.

Also, can you tell us what portion of INS vehicles have been acquired through seizure?

INS has 3,104 vehicles in its operational fleet. Of that number, 163 are seized vehicles that have been converted to official use.

Immigration Reform

One of the immigration reforms recommended would establish an experimental temporary worker program. If this program is enacted, would you have to request additional appropriations?

It is anticipated that if the temporary worker program were established, the additional work generated would require additional manpower. Two additional immigration inspectors and two support positions would be required to perform the duties accompanying the experimental program.

In addition to the increased staff, an estimated $135,000 would be required to fund the cost of printing publications and forms for the temporary workers, and required word processing equipment.

Management Reforms

INS has been the subject of numerous studies. We have had reports on substantive legislative reforms and we have had several management studies, including that of the Presidential Management Improvement Council. Will you please tell us what is being done to get the INS management house in order?

The Service has already implemented many of the PMIC recommendations. As illustrations, the Service has:

Developed an organization and functions manual which will clarify the responsibilities of various units within the Service;

Established the Office of the Comptroller;

Developed and approved a long-range ADP plan, currently under review by the Department;

Awarded a contract to National Data Corporation to establish an interim ADP capability;

Decentralized fund control to provide more field flexibility; and

Established a high-level Procurement Review Board and a Contracting and Procurement Branch.

Other recommendations are currently being implemented in accordance with the Service's FY 1982 priorities. As illustrations, the Service is:

Developing a revised code of conduct for Service employees;

Developing a formal financial planning/performance measurement process;

Developing improved recruitment, training and promotion programs.

Further, the confirmation of Mr. Alan Nelson as Commissioner on February 8, 1982, provides the Service with the first fully confirmed Commissioner in two and one half years. Since his confirmation, steps have been taken to improve the Service's management. The Planning and Evaluation Staff conducted an in-depth analysis, Review of the Decision Process, Functions and Organizational Structure, to determine to what extent organizational/structural/decision process changes are now warranted, or should be planned for, to improve the overall operations and management of the Service. This review includes an extensive analysis of organizational issues, key interviews with Central Office and field personnel, and the delineation and analysis of options, including reorganization, available to the Commissioner in each subject area. The results of the review were presented to the Commissioner on March 5, 1982. He is currently reviewing them with an eye to correcting the perceived deficiencies in the Service's organizational structure and decision process, and realigning Service functions, where required.

Moreover the Service has begun to fill the top-level, key management positions with permanent appointments, thereby resolving the leadership vacuum which has existed since the departure of Commissioner Castillo over two years ago. When completed, there will be a full management team to bring about further management improvements in the Service.

Intelligence Program

How is the Service's Intelligence Program able to identify unqualified aliens prior to their entry?

The INS Intelligence Program is able to assist the Service in identifying unqualified aliens prior to their entry into the United States through a number of direct and indirect methods. Some of these methods include the following:

Collecting and disseminating information on current schemes, trends, modus operandi, and indicators in visa fraud, passport fraud, counterfeiting and alteration of documents used in attempts to illegally enter the United States to officers in the field. This information is disseminated both by Regional Intelligence Officers and by the Central Office Intelligence Staff.

Exchanging intelligence information with U.S. Consular Officers and the Visa Office, U.S. Department of State, to assist them in screening out mala fide applicants prior to issuance of visas.

Alerting ports of entry in cases where the Intelligence Program obtains knowledge of specific attempts by individuals or groups to illegally enter the United States.

Conducting forensic document laboratory work which has proven to be a valuable asset in supporting exclusion cases involving very skillfully altered, forged, or counterfeit documents. The laboratory also provides previously unavailable reference materials and

working aids to assist INS officers in detecting high quality counterfeits and alterations prior to admission of unqualified aliens.

Collecting and making available information on lost and stolen passports, fraudulent birth records, fraudulent baptismal records and other documents used by aliens in attempts to support false claims to U.S. citizenship to Service officers through intelligence reports, lookouts, and the El Paso Intelligence Center. This information assists INS officers in detecting false claims by aliens prior to their admission.

How many of these aliens were identified last year and what number subsequently were apprehended?

Because of the extremely austere staffing of the Intelligence program and especially the Central Office Intelligence Staff, with only two officers on duty presently, it is not possible to collect and maintain these statistics. Furthermore, because much of the Intelligence Program's efforts indirectly contribute to overall increased capabilities to detect fraudulent documents and schemes, both in INS and at consular posts, there is no feasible way to directly measure the results in a quantitative manner. Information on an impending scheme to attempt the entry of a group of aliens using false travel documents has in one case resulted in an interception at a port of entry within 24 hours. At the other extreme, information on a specific stolen passport did not result in an interception until five years later, when an alien attempted to enter the United States.

Questions Submitted by Senator Ernest F. Hollings

Transfer of Reception, Processing and Care Functions

The 1983 budget provides for transfer to INS of the reception, processing and care functions now conducted by Health and Human Services (HHS). A total of $58,735,000 is requested by INS for the functions in 1983.

What is the 1982 level of funding in HHS for these functions; and how is it distributed? How will the $58,735,000 be spent in 1983? How much of the 1983 money will stay with INS?

Currently, approximately $57 million is projected to be available for these activities in FY 1982. Of this total, $44 million will be available to HHS's Office of Refugee Resettlement and Public Health Service for health care, grants and contracts and $13 million will be available to DOJ for the detention and care of Cubans in DOJ facilities. It should be noted that the precise distribution of these resources in FY 1982 will vary depending on the distribution of the population and availability of different types of grants and contracts. However, the Department is reviewing the distribution of these funds based on changes in the circumstances surrounding the care and location of the Cubans and Haitians. The Department will shortly submit a FY 1983 budget amendment related to this activity, detailing the distribution of funds in FY 1983.

It appears that INS is the tail wagging the dog. Why does the money not remain with HHS, with it making an allocation to INS as was done previously?

On January 21, 1982, the President signed Executive Order 12341 which transferred several authorities relating to Cuban and Haitian entrants contained in Title V Section 501(c) of Public Law 96-422 to the Attorney General. These have been previously administered by the Department of Health and Human Services (HHS).

The Administration believes that the Cuban/Haitian effort should be coordinated by the Department of Justice (DOJ) since DOJ is responsible for detaining illegal aliens. It is the intention of the Department to reimburse Health and Human Services (HHS) for services provided in caring for Cuban and Haitian aliens.

Overtime

Several years ago this Committee provided that INS employees' overtime should be limited to $20,000 except when the Commissioner had to make a waiver to cover certain situations. During FY 1981 how many employees were paid more than $20,000 in overtime?

During FY 1981, sixty-seven employees were paid overtime of more than $20,000 in accordance with waivers authorized by the Commissioner.

The language requested for 1983 no longer provides for a waiver of the $20,000 overtime by the Commissioner. Does the INS now believe that the waiver is no longer necessary for their operations?

When the language for the 1983 appropriation was prepared, INS assumed that the overtime provisions of the 1931 Act would be repealed and replaced by a modified version of the Federal Employee Pay Act of 1945. At this time it does not seem likely that the proposed overtime legislation will be enacted in this session. Therefore, an extension of the waiver provision is necessary. We are now preparing a proposal to extend the Commissioner's authorization to exceed this pay limitation.

Construction Program

The 1982 appropriation includes $1,821,000 for construction of two border patrol stations at El Cajon, California and Eagle Pass, Texas. The 1983 justifications include a request to make this available until expended in 1983; however, the funds for 1982 have no such provision. Why are we asked to make the funds remain available in 1983 if the funds will have lapsed on September 30, 1982?

The Department requested that the FY 1982 continuing resolution when extended contain a provision for no-year funding. Since the present continuing resolution for FY 1982 does not contain the provision for no year funding, INS will be requesting such a provision in a supplemental appropriation.

The time necessary for the orderly process of the government and existing contractual/construction policies and regulations will not permit the award for the construction contract during 1982.

Charlotte and Atlanta Offices

Last year the Congress directed that two additional attorneys be assigned to the Atlanta office and one to the Charlotte office to cope with 1-1/2 year backlog in naturalization cases in those offices. In addition, the Committee stated that the Atlanta office should be assigned an additional attorney on a temporary basis to help overcome the backlog. Have those additional positions been assigned to the Atlanta and Charlotte offices, and are they now filled?

There are currently two attorneys in Charlotte and one in Atlanta who do principally naturalization work. INS in the process of filling a vacant supervisory attorney position in Atlanta.

Based upon increased productivity resulting from passage of the "Efficiency Bill" (P.L. 97-116), INS feels that four officers should be sufficient to handle the naturalization workload in the Atlanta and Charlotte offices. INS, therefore, feels that the addition of new resources to these locations is unnecessary at this time.

If new resources should become necessary in the near future because of an upswing in applications it would be INS' intent to add one or more non-attorney naturalization examiners to the force. INS is converting by attrition its naturalization program from one staffed by attorneys to one staffed by non-attorneys. The reduced number of attorneys who remain can then devote their full time to complex cases and other legal duties, leaving routine interviews and non-contested matters to non-attorney officers.

There is no Administrative Law Judge assigned to either the Charlotte or Atlanta Offices. The judges in Miami are supposed to take care of the trials at those offices, but none have ever been to Charlotte, and people that should have been deported long ago are still in the United States. What is the present deployment of INS judges and is any relief in sight for Atlanta or Charlotte?

The Miami judges have been occupied with programs involving detained Cubans in Atlanta and detained Haitians in Miami, Florida; Fort Allen, Puerto Rico; Lexington, Kentucky; and other locations. However, the Acting Chief Immigration Judge has been requested to make immediate arrangements for a judge to visit the Charlotte office. Atlanta is one of the offices which is under serious consideration for the assignment of a permanent immigration judge position.

According to recent newspaper articles, the Charlotte office is locking the door at 1 p.m. and only answering the phone six hours a day due to a flood of business. Does INS have the capability to assign an extra clerk to answer the phones, as well as an additional travel control clerk to keep up with the paperwork?

There are no additional clerks in the Charlotte office available at this time to increase the telephone duty to eight hours. Attempts will be made to discover if rearranging present field office personnel schedules could permit the extension of open door operating hours and telephone services. Also, when additional information services resources are received, priority will be given to the Charlotte office to support extending operating hours and telephone services.

Border Patrol

The Border Patrol on the immediate border has remained constant at 2,690 positions for FY 1981 through 1983. According to information supplied the Committee by INS, 2,333 of those positions were filled as of last September 30 and 2,342 as of February 18, 1982, an increase of only nine. The Attorney General stated his strong support for the INS and has put great emphasis on containing the flow of illegal aliens across our borders.

Why, then, is the Border Patrol still limping along at a level almost 350 below the authorized number of positions?

Although it is true that the Border Patrol's authorized force in the immediate border was 2,690 in FY 1981, President Carter's budget required a cut of 160 positions in 1982. Anticipating the cut, INS did not attempt to fill these positions. The positions were restored by the amendment to the 1982 budget on December 15, 1981 and plans are being made to fill them.

Due to the recruiting and screening process it takes a minimum of 90 days to hire a class of 48 border patrol agents. Classes must be scheduled at the Federal Law Enforcement Training Center in Glynco, Georgia. The Border Patrol presently has two classes at the Academy and has five more classes of 48 each scheduled for the remainder of the fiscal year.

The President and the Attorney General are more aware than we are of the situation along the California/Mexico border. Is it not surprising that the Border Patrol in the Chula Vista sector is 57 below the authorized complement?

It is not surprising that the Chula Vista sector is 57 below its authorized force considering that in FY 1981 the Service was faced with a reduction in force that necessitated a hiring freeze during the last three quarters of the fiscal year. During the first quarter of FY 1982 the Service was told that it might have to absorb the October pay raise, which caused another hiring freeze during the last two months of that quarter.

The Service is now working on a continuing resolution which assures funding only through March 31, 1982. The uncertainty caused by these events has prevented the Service from filling vacancies at the normal rate.

The two classes presently at the Academy together with the five scheduled for the remainder of FY 1982 will bring the Chula Vista sector as well as the Service to its funded level.

Inspection

In past years INS has delegated its inspection responsibilities at the borders to the Customs Service at many points of entry. According to a recent analysis of the 1983 budget, Customs is reducing their inspection staff by more than 1,170, while the INS number is staying the same as authorized in 1982. In the face of a projected 20 million increase in the number of persons to be inspected, how can we maintain our borders in view of such a drop of Customs personnel?

With a reduction of 1,170 Customs inspectors, INS would undertake the following actions:

- Install the Accelerated Inspectional System (ASIST) at other airports as quickly as possible, thereby continuing to expand cooperative efforts to share the primary inspection responsibility.

- Increase the number of applicants for admission to be inspected per inspector, per hour.

- Assuming the U.S. Customs Service cannot continue to maintain United States citizens' by-pass, INS will inspect all persons on the primary inspection line at non-ASIST airports.

- Invite Customs to participate in the ongoing INS studies assessing the need for inspectional presence at low volume land border ports. These studies will determine the degree to which operational hours at land ports can be reduced and/or if the operation of the port should continue.

Such management improvements as ASIST and U.S. citizen by-pass have increased the efficiency of the INS Inspections program in recent years. However, in the light of a reduction of 1,170 Customs inspectors, the level of INS inspections services cannot be maintained without an increase in its staffing.

According to a recent news article, INS now has a backlog of more than 30 million unprocessed visitor forms, and it will take until 1983 to verify who entered or who left the country in the past two years. What is INS doing to process this backlog of I-94 forms, and is there anything that can be done to accelerate the processing?

As of September 30, 1981, INS had approximately 30 million I-94 documents to be processed. Contracts were awarded to three private vendors and the Federal Prison Industries, Inc. to process the I-94s. The Service decided to award multiple contracts rather than a single contract as in the past. This was done to accelerate the processing of the backlog and to achieve currency as soon as possible.

On page 17 of the justifications, you state that two million Alien Registration Receipt Cards (I-551) and Non-Resident Border Crossing Cards (I-586) have been produced and issued and that cards are being produced at the rate of 3,800 per day.

Have you noticed any increase in the fraudulent production of this card? Since you have reduced your number of investigators, how are

you able to assess the availability of such documents and the potential for their use to obtain various benefits such as employment, welfare, etc?

In 1977, the first two altered I-555s were intercepted by INS. During 1978 and 1979, the interception of altered or photocopied I-551s was a rarity. Although it was suspected that counterfeiters would soon expand their efforts to include the production of counterfeit I-551s, it was not until 1981 that the first totally counterfeit I-551s were found by INS. The limited number of counterfeits which have become known to INS to date have not matched the quality of legitimate cards.

INS inspectors at ports of entry and U.S. border patrol agents would be more likely to intercept counterfeit I-551s in the posession of aliens attempting illegal entry. However, available information indicates that the vendors are instructing their alien clients not to present the counterfeit cards to INS, but to use them only to obtain employment and other benefits. Consequently, the number of counterfeit I-551s found or intercepted by INS has remained at a very low level. Since investigators are located primarily in the interior of the country, they would be less likely to intercept cards, except in specific operations or investigations.

In the event of passage of employer sanctions legislation, there will be an increase in the use of fraudulent documents since aliens will need documentation for employment.

Permanent Detention Facilities

The Department still supports $35,000,000 requested in a budget amendment in September 1981 for a new permanent INS detention facility. Apparently, the community of McAlester, Oklahoma, has indicated a willingness to have the facility located in that area. Why does INS need such a facility?

By providing needed detention space, the INS will be able to support an enhanced enforcement program that will generate additional numbers of aliens detained which present facilities cannot accommodate. An enhanced detention capability is integral to the Administration's plan to regain control of our borders.

Is not McAlester far removed from the border and will not it substantially increase travel and transportation costs?

McAlester, Oakdale, LA, and other locations are being reviewed as the potential site and judged as to their feasibility under a criteria that includes costs of operation and travel.

Since the primary purpose of the proposed facility is to allow the detention of a large number of apprehended aliens resulting from an enhanced enforcement program, the location of the facility in the south central portion of the United States is considered ideal. The large number of apprehensions and resultant detentions that will be generated from the large urban and industrial area, such as Chicago, Detroit, Kansas City and the greater northeast will primarily be routed through this area. The ultimate destination of the majority of these will be Mexico, Central and South America.

Is it not correct that at one time consideration was given to locating this facility at Camp Drum, New York? A Camp Drum location would certainly have a chilling effect on the plans of Haitians and other illegal aliens from the Caribbean area about coming to the United States. What happened to the plan to locate the facility at Camp Drum?

Fort Drum was not considered as a site for the newly proposed detention facility. It was, however, considered as an emergency contingency location to house Haitians if the influx had continued. Fortunately, the influx has significantly decreased. The Department of Defense had originally agreed to provide a limited portion of the base, for a limited period of time, until a permanent facility could be constructed.

Last year the federal government consigned to the State of New York on lease a former military site at Watertown, New York, for use as a state correctional facility. Watertown is close to Camp Drum. Did we give away to the State of New York the site that was planned for the INS facility?

No. The facility leased to the State of New York was a small former Air Force facility unrelated to Fort Drum.

DRUG ENFORCEMENT ADMINISTRATION

STATEMENT OF FRANCIS M. MULLEN, JR., ACTING ADMINISTRATOR

ACCOMPANIED BY:

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CHARLES R. NEILL, CONTROLLER, DEPARTMENT OF JUSTICE
MICHAEL J. ROPER, DEPUTY DIRECTOR, BUDGET STAFF
MICHAEL WENK, OFFICE OF THE CONTROLLER, DEPARTMENT OF JUSTICE

PREPARED STATEMENT

Senator WEICKER. Our next request is that of the Drug Enforcement Administration. The amount requested is $246,945,000, a decrease of $2,500,000 from the 1983 base. This appropriation provides leadership in the suppression of narcotics and dangerous drugs at the national and international level, and to enforce the controlled substances laws thereby restricting the aggregate supply of drugs of abuse.

Appearing on behalf of this request is Francis Mullen, Acting Administrator. I will allow Mr. Mullen to introduce those accompanying him. We will be pleased to take your statement in its entirety at this time, or you can go ahead and summarize it.

[The statement follows:]

STATEMENT OF FRANCIS M. MULLEN, JR.

I am pleased to have the opportunity to appear before this Subcommittee for the first time to discuss the Drug Enforcement Administration (DEA) budget, our mission, our objectives and our plans for 1983.

1983 Budget Request

The 1983 appropriation request for DEA totals $246,945,000 and 3,953 positions. This represents a net increase of $16,096,000 from the pending 1982 amount of $230,849,000. This appropriation finances a comprehensive program that operates with field offices in 50 states and 43 foreign countries, eight field forensic laboratories, and Federal/State and local task forces in 18 areas.

In keeping with the President's economic recovery program, our 1983 budget includes a decrease from the current services level of $2.5 million in salaries and benefits--equivalent to 100 workyears--to be allocated proportionally to the workyears budgeted for the various DEA programs. This will minimize the adverse impact on the Nation's drug enforcement effort, and will provide funding for the ongoing level of operations within DEA.

Management of Federal Drug Enforcement

Interagency

Since the DEA last came before the Congress for consideration of its program in conjunction with the appropriation request, there have been several significant changes with regard to how we approach the drug enforcement effort. As you are no doubt aware, on January 21, 1982, Attorney General William French Smith announced major revisions in the Nation's Federal drug enforcement effort. The purpose of these changes is to promote more effective drug enforcement through coordinated efforts involving DEA, the FBI, the United States Attorneys and agencies from other Departments, where appropriate.

The Attorney General has created a committee that will oversee the development of drug policy and assure that all the Department's resources, including its prosecutorial and correctional efforts, are effectively engaged in the effort against drug trafficking.

Additionally, the Attorney General adopted the recommendations of a committee of Department of Justice officials he appointed last summer to study how the DEA's and FBI's efforts could be better coordinated. Responsibility for

the general supervision of drug enforcement efforts has been delegated to the Director of the FBI, so that as DEA's Administrator, I now report to the Attorney General through Director Webster. In furtherance of this relationship, the Attorney General also has moved to involve the FBI in the drug enforcement effort. This will, for the first time, bring the full resources of the FBI to bear on the problems associated with drug trafficking.

Assigning the FBI jurisdiction in drug investigations will immediately increase the number of agents available for our mission. DEA will be able to make maximum use of the FBI's wide deployment. In quite a few areas, DEA has small representational offices that will certainly benefit from the manpower and expertise of the FBI.

No less significant will be the enhancement of investigations into the many other violations that go hand-in-glove with drug trafficking. Uniting the efforts of DEA and the FBI will afford the government the opportunity to attack the other crimes uncovered in drug investigations, such as organized criminal activities, money laundering, bank fraud and public corruption.

DEA Organization

Internally, DEA is moving toward streamlining its Headquarters' programs, adjusting to a drug program management structure, while at the same time we are dismantling the geographic regional structure and advancing to a direct reporting mode. These two actions will make DEA a more effective, less bureaucratic agency and will also provide managers with more resources for field investigations of drug violations.

In short, the greater involvement of the FBI in the investigation of Federal drug offenses, the recent initiative by the Department of Justice to place the highest priority on the coordination of drug investigative efforts involving the DEA, the FBI, the U.S. Attorneys, and other Federal agencies, and our internal reorganization should result in a more efficient use of drug enforcement resources.

Effect of Drug Abuse and Scope of U.S. Government Strategy

Effects of Drug Abuse

My interests and objectives are to keep the United States Government at the forefront of the drug war. The public has entrusted us with their faith to address this insidious problem which is a major cause of crimes against the public. Violent crime associated with drug trafficking is unacceptable; the

drug-money induced erosion of our financial and tax structure is unacceptable; the injurious health repercussions our youth are suffering are unacceptable. Clearly, the drug problem is one which requires Federal leadership not only to manage the international and interstate aspects; but also to influence and motivate State and local authorities to implement worthy drug control programs.

United States Government Strategy

The strategy of the U.S. Government must be to make the trafficking of drugs considerably less lucrative in terms of increased and consistent punishment, and to assure the certain loss of accumulated profits and proceeds of this criminal enterprise. We must also approach the demand issues and make the use of drugs less appealing. Finally, we need to better educate the public about the health consequences of drug abuse.

Impact of Federal Drug Law Enforcement

Federal drug law enforcement can act aggressively in several areas:

Internationally

- to stop production at the source and
- to assist in the interdiction of drugs and moneys before they penetrate U.S. borders.

Domestically

- to investigate and develop cases at the highest levels of violators,
- to strike at organized crime,
- to hold to a minimum the availability of controlled substances,
- to seize for forfeiture the profits and proceeds of drug trafficking, and
- to strengthen the cooperative Federal, State and local drug enforcement apparatus to increase the likelihood of law enforcement activity at all levels of drug trafficking.

Assessment of Drug Trafficking Situation

Heroin

I think it needs to be said that the efforts of DEA have had a demonstrable impact in protecting the American public from the dangers of drug abuse. This success over an extended period of time is the result of following the U.S. national strategy of placing first priority on heroin suppression.

Heroin availability and subsequent abuse continue at relatively low levels compared with record high levels as recently as 1976. We accurately predicted increased supply and trafficking in Southwest Asian heroin, which has allowed time for adequate planning and shifting of resources to prevent the influx from seriously afflicting the U.S. population. We have had unprecedented

international success in penetrating drug trafficking networks and disabling their conversion laboratories at overseas locations in Italy and the Middle East thus preventing the converted heroin from reaching the U.S. population.

Dangerous Drugs

Abuse of legally-produced dangerous drugs is our second priority objective. This facet of drug abuse, although perhaps the least publicized component of our total operations, is no less a vital element in our strategy. Sixty to seventy percent of all deaths and injuries from controlled substances are associated with legally-produced drugs. Our international efforts directed toward control of bulk shipments of pharmaceutical material have had significant results. Domestically, our initiatives are targetted at controlling diversion of drugs from legitimate handlers, particularly practitioners. Overprescribing and misprescribing are problems of diversion that are recognized by health professionals as warranting attention. Mobilizing the resources of the business community in the area of diversion of legitimate drugs will be a major component of a Federal strategy.

Cocaine and Cannabis

Cocaine and cannabis trafficking seem to be relentless. Our multi-faceted enforcement operations, such as the recently concluded Operation Tiburon III, remove vast quantities of these drugs from the marketplace. However, without meaning to detract in the least from the accomplishments of this enforcement campaign, we need to have effective controls on the illicit cultivation of these substances. Control at the source is a pillar of the U.S. drug strategy. All the coca leaves are cultivated on foreign soil; all but seven percent of the cannabis is cultivated beyond our shores. A strong, viable international program is critical to the realization of a measurable impact on the supply of these drugs and the narco-dollars that grow and multiply as a result of the market for cocaine and marihuana. Eradication, crop substitution, income subsidies and enforcement actions need to be set in motion and/or accelerated.

Foreign Operations

DEA Activities

DEA's lead agency role overseas of working actively with counterpart agencies has been highly effective and must be continued. This effort includes technical assistance in eradication, cooperative investigations and legislative

proposals, the provision of training, and the exchange of intelligence. We are prepared to work more diligently to achieve our program goals.

Legislative and Diplomatic Efforts

However, we will need the support of the Congress to help convince the leadership of drug-source nations that the United States is firmly and irrevocably supportive of drug control abroad and at home.

Impact of Domestic Activities on Foreign Governments

To effectively persuade foreign governments to act on drug control, the Federal Government must combine a convincing domestic program with a consistent diplomatic program. Strong coordination must be established to ensure that all aspects of the U.S. policy support our drug control interests overseas. Advancement of a firm domestic marihuana control program is a needed demonstration of this commitment. We are actively involved with marihuana-source states to develop and implement domestic eradication programs.

Federal, State and Local Cooperative Activities

Domestically, our commitment to working with the Federal law enforcement community has never been stronger. In these austere times, we have all recognized the need for further enhancement of cooperative endeavors. We are maintaining a strong emphasis on interagency investigations with the Customs Service, the Coast Guard and the rest of the Federal enforcement community. I believe we will be seeing an acceleration in the number of interagency, high-level investigations.

El Paso Intelligence Center (EPIC) and Military Assistance

The El Paso Intelligence Center (EPIC) has a vital place at the heart of our operations. EPIC is an interagency operation supported by DEA, the FBI, Coast Guard, Immigration and Naturalization Service, U.S. Customs Service, Bureau of Alcohol, Tobacco, and Firearms, Federal Aviation Administration, U.S. Marshals Service and the Internal Revenue Service. EPIC also has working agreements with 46 State law enforcement agencies and the Virgin Islands. As the number of participating agencies has increased, the reliability of EPIC's products and services has been recognized by consumers and, as a result, the increase in demand for EPIC's services has been significant. With drug enforcement emphasis on international operations, conspiracy cases and financial investigations, EPIC's workload has become more complex. As a result of the enactment of the

Department of Defense Authorization Act, 1982 (P.L. 97-86) on December 1, 1981, DEA can look forward to increased military assistance in drug smuggling incidents and cases, which should provide for further enhancement and utilization of EPIC's capabilities.

Investigative Support in DEA

Thus far, I have discussed our major program directions and, in so doing, I have left unstated the critical components of DEA's activities which support our enforcement program and provide the DEA agents with the needed tools of the trade. Support operations activity encompasses: our strategic and tactical intelligence program; laboratory analysis of evidence in support of investigations prosecution of drug traffickers and support of State and local operations; training programs for all levels of DEA operational personnel, State and local personnel, and foreign officials; and maintenance of an effective technical equipment program, including aircraft operations to support increasingly complex high-level investigations. The individuals who staff these vital functions are extraordinarily committed to supporting our agents and the DEA mission.

Conclusion

For years, DEA has done fine work at home and abroad. In my eight months as Acting Administrator, I have been pleased at the obvious dedication and professionalism of the staff and the continued effectiveness of the enforcement effort. I am confident that an infusion of FBI resources to supplement those of DEA will aid immeasurably in our national drug enforcement effort. Through a unified effort involving DEA, the FBI, prosecutors and others, we will have the resources and the expertise to attack the upper echelons and the financial structures of the Nation's large drug trafficking organizations.

The new unified DEA/FBI effort, however, is only one part of the Administration's concerted program to impact on the flow of drugs into the United States and on those who control and profit from drug trafficking. With statutory restrictions clarified, the Administration is now implementing a program to involve the military in lending equipment, such as radar, to civilian law enforcement and passing on information related to drug smuggling. The Treasury Department is establishing a financial intelligence center in Florida designed to follow and seize the millions of dollars in profits which are transitting banking institutions in Florida.

In addition the Administration is marshalling into Florida investigative resources from around the country, including FBI, DEA, and Customs officers, to exert more enforcement pressure on the trafficking organizations. The Vice President is directing a special task force to coordinate the Administration's program.

The control of the drug problem requires action by every level--individuals, organizations, local and State government, and the Judicial, Legislative and Executive Branches. Legislative initiatives in the areas of criminal forfeiture, bail, and sentencing are essential to these integrated enforcement efforts. We look forward to your support of our agenda.

This concludes my statement, Mr. Chairman. I shall be pleased to answer any questions you or other members of the Subcommittee may have.

INTRODUCTION OF ASSOCIATES

Mr. MULLEN. Thank you. With me today are Jim Williams, Acting Chief of the Budget and Manpower Management Section; Frank Monastero, Acting Assistant Administrator of Operations; Donald P. Quinn, Acting Assistant Administrator, Operational Suport; Gene Haislip, Acting Deputy Assistant Administrator, Office of Diversion Control; Malcolm Arnold, Acting Deputy Assistant Administrator, Administration.

Mr. Chairman, I am pleased to have this opportunity to appear before this subcommittee for the first time as Acting Administrator of the Drug Enforcement Administration.

1983 OVERVIEW

The 1983 appropriation request for DEA totals $246,945,000 and 3,953 positions. This represents a net increase of $16,096,000 from the pending 1982 amount of $230,849,000.

Our budget includes a decrease of $2.5 million in the salaries and benefit base, equivalent to 100 work-years. The ongoing level of operations will be maintained.

The greater involvement of the FBI in the investigation of Federal drug offenses, the recent initiative by the Department of Justice to place the highest priority on the coordination of drug investigative efforts involving the DEA, the FBI, the U.S. attorneys, and other Federal agencies, and our internal reorganization should result in a more efficient use of drug enforcement resources.

The drug problem is one which requires Federal leadership, not only to manage the international and interstate aspects, but also to influence and motivate State and local authorities to implement effective drug control programs. Trafficking in drugs must be made less lucrative and the use of drugs less appealing.

DEA resources will continue to be applied to investigation of, first, heroin trafficking, then dangerous drugs, cocaine, and cannabis trafficking. The efforts of DEA have had an impact in protecting the American public from the dangers of drug abuse by placing first priority on heroin suppression.

Control of drugs at the source, usually overseas, is a pillar of our strategy. We will continue to fulfill the role of lead agency in drug enforcement activities overseas.

Domestically, our commitment to working with the Federal law enforcement community has never been stronger. I believe we will see an acceleration in the number of high level interagency investigations. Right now the Treasury Department is establishing a financial intelligence center in Florida, and investigative resources from around the country are being marshaled in Florida to exert more enforcement pressure on traffickers.

Further, the El Paso Intelligence Center will assume an even more critical importance as a result of the enactment of the Defense Department Authorization Act of 1982, which increased military assistance in combatting drug trafficking.

The control of the drug problem requires action by every level—individuals, organizations, local and State government, and the judicial, legislative, and executive branches.

That concludes my statement, Mr. Chairman, and I am prepared to answer any questions.

IRS/DEA COOPERATION

Senator WEICKER. What is this Treasury financial intelligence center in Florida?

Mr. MULLEN. The Treasury Department, along with the FBI, DEA, IRS, and Customs, is going to facilitate asset forfeiture and seizure and to follow the money transactions. As you know, between $6 and $7 billion a year is pumped into the Miami economy, we believe, because of drug trafficking. We want to try to determine where the money is coming from and where it is going, in an attempt to seize the assets.

Senator WEICKER. How did IRS get into this act?

Mr. MULLEN. As an agency of the Treasury Department. If we have individuals we believe are trafficking in drugs, we can furnish that information to the Internal Revenue Service and they could conduct criminal-type investigations.

Senator WEICKER. Has something happened with IRS that I didn't know about?

Ms. INGRAM. Is there a new agreement between the FBI, DEA, and IRS?

Mr. MULLEN. No new agreement. They work within Treasury. That is why Treasury is coordinating this committee. No new agreement that I am aware of.

Senator WEICKER. I think staff ought to find out exactly what is going on here. I have expressed my concern over the years that the Internal Revenue Service is a revenue collecting agency, it is not a law enforcement agency.

Mr. MULLEN. We pass information to them; they don't pass it to us.

Senator WEICKER. I would appreciate a more detailed response as to this item so we can take a look at it.

[The information follows:]

SUPPLEMENTING INFORMATION REGARDING INTERNAL REVENUE SERVICE ACTIVITIES RELATED TO NARCOTICS ENFORCEMENT

Narcotics trafficking produces billions of dollars of income per year for drug traffickers and their financiers. Because experience has shown that virtually none of this income is reported for Federal income tax purposes, the Criminal Investigative Division of the Internal Revenue Service, as part of its special enforcement program, actively investigates major narcotic trafficking cases to determine whether related tax crimes have occurred.

To assist in this endeavor, the Drug Enforcement Administration has a memorandum of understanding with the Service, which was updated in 1980, governing the limited cooperation between the Service and the Drug Enforcement Administration. Pursuant to this agreement, the Service assists in the training of DEA agents in financial investigation techniques. In certain instances, the Service, upon request, makes available experienced financial investigators to assist DEA agents in complex financial investigations related to narcotics trafficking. Furthermore, Service and DEA agents sometimes work together on joint tax and nontax grand jury investigations authorized under existing law and Service regulations. Finally, DEA furnishes the Service with information pertaining to major narcotics traffickers and their financiers so that the Service can, in its discretion, proceed with criminal tax investigations of such persons who receive massive sums of illicit income from drug traffic.

These various activities are all carried out in compliance with the Privacy Act of 1974 and the tax disclosure restrictions enacted in 1976 (26 U.S.C. 6103). IRS activities in the narcotics area look to collection of revenues and have, in fact, resulted in numerous criminal tax convictions of persons involved in narcotics trafficking.

WORK-YEAR REDUCTION IMPACT

Now, having said that, I see there is a decrease of $2.5 million in salaries, equivalent to 100 work-years. Considering the fact the problem seems to get greater, I don't understand why the decrease.

Mr. MULLEN. Well, this is in keeping, Senator, with the President's economy effort to reduce Government spending and, like all agencies, DEA was reduced, but we did get close to what we asked for in our budget. I believe that request was $229 million for this year, and we are working with $231 million.

I believe the infusion of the FBI resources will take the slack in many areas. I can cite as an example Cincinnati, Ohio, has two DEA agents in the entire city to cover southern Ohio; the FBI has seven agents. Where in the past DEA could not implement a wiretap, we have done so in working with the FBI.

I believe we have an adequate budget and can fully carry out our mission, but I am going to watch to see how well we work out the relationship with the FBI.

BUDGET REQUEST HISTORY

Senator WEICKER. Mr. Neill, do you want to give us the history of the budget request for the record?

Mr. NEILL. Yes; I will supply it for the record.

[The information follows:]

92-810 O—82——19

DRUG ENFORCEMENT ADMINISTRATION
FY 1983 BUDGET
(Dollars in Thousands)

DECISION UNITS	1983 ORGANIZATION REQUEST			1983 OMB SUBMISSION			FINAL FY 1983 OMB MARK AND CONGRESSIONAL SUBMISSION		
	Pos.	Wys.	BA	Pos.	Wys.	BA	Pos.	Wys.	BA
Domestic Enforcement	1,959	1,949	$121,577	1,917	1,915	$113,639	1,917	1,873	$116,150
Foreign Cooperative Investigations	355	391	32,077	355	355	30,826	355	347	31,385
Compliance & Regulation	361	356	15,730	408	394	16,346	408	385	16,676
State & Local Training	40	39	2,639	49	48	3,101	49	47	3,153
State & Local Lab Services	22	22	1,503	22	22	1,528	22	21	1,546
State & Local Task Forces	114	109	11,674	114	109	12,055	114	107	12,248
Diversion Investigation Units	...	...	...	...	...	...	...	...	...
Intelligence	375	369	18,999	366	362	18,553	366	354	19,034
Research and Development	19	18	1,876	19	18	1,891	19	18	1,917
DEA Lab Services	182	182	10,566	182	182	10,106	182	178	10,308
DFA Training	26	25	2,925	26	25	2,336	26	24	2,349
Technical Operations	154	142	19,491	119	116	14,189	119	113	14,378
Executive Direction & Control	263	261	11,387	263	261	11,424	263	255	11,666
Administrative Services	113	112	6,706	113	112	6,053	113	110	6,135
TOTAL	3,983	3,975	$257,150	3,953	3,919	$242,047	3,953	3,832*	$246,945

*Does not include reduction of 13 reimbursable workyears.

REDUCTION

Senator WEICKER. I want to repeat, in your instance, as in the case of the Federal Bureau of Investigation and certain aspects of the Justice Department, I don't think that anybody expected, in view of the magnitude of the problem and the continuing increase of that magnitude, any budget savings to be taken out of the Drug Enforcement Administration. I certainly don't. I don't think the public does. It is high on the list of priorities, and it seems to me yours is one of the requests that should have been fulfilled in its entirety.

Now it is what, $2 million and some odd below the request? Decreased $2 million from last year?

Mr. MULLEN. $2.5 million program reduction.

Senator WEICKER. What is the difference between the request and what is in the administration budget?

Mr. MULLEN. The difference between our original request——

Senator WEICKER. Before it got the OMB scrutiny.

Mr. MULLEN. This is an increase over 1982. Your question is what the DEA requested and what the administration——

Mr. NEILL. It is an $18 million increase, net increase over the 1982 budget.

Senator WEICKER. What was their request?

REORGANIZATION

Mr. MULLEN. What was approved? Mr. Chairman, I can add to this. Within DEA, too, as I mentioned in my opening statement, we have taken on an internal reorganization abolishing the regional structure to recapture resources and with the budget we are requesting, I do believe that it is adequate to perform our mission. We are putting 20 additional agents, for example, into Miami where we are having serious problems at present, and sending a number down there on a temporary basis to try to resolve the problem.

NASHVILLE STAFFING REDUCTION

Senator WEICKER. Senator Sasser inquires as to why DEA is eliminating two out of three agents in Nashville.

Mr. MULLEN. In connection with our reassignment and reorganization in the regions, we assessed where we needed the agents most. We have gone from a regional structure to a field office system reporting directly to headquarters. We looked to intelligence, to past performance, availability of resources which could be made available by the FBI. We determined where we could be most effective with the almost 1,860 agents we have on board in DEA. We are going to maintain a presence in all States, but we believe we have got to concentrate in the Northeast corridor, up in New England, New York, down through the Carolinas, Miami, along the Gulf Coast, Texas, and California. We will maintain agents in these other areas, hopefully working with the joint Federal/State/local task force operations, local police and FBI, and we believe we can be even more effective in the future.

Senator WEICKER. I understand because I have had the Director of the FBI before our committee, and he indicates there is a cooperative venture between your two agencies.

On the other hand, Nashville is in such a good position that we need only one DEA agent?

Mr. MULLEN. That one agent won't be performing alone. He will be working with the Bureau, with the State and local authorities and in joint operations. I point out, Senator, when I went over to DEA on July 1 of last year, we had 10 to 15 cooperative investigations. Today that number is 225. These are all significant investigations that are directed at the higest levels of the drug traffickers.

Senator WEICKER. Excuse me one minute. Senator Mattingly is on the phone. I will be right back.

[A brief recess was taken.]

DOJ/OMB REQUEST

Mr. MULLEN. Senator, in answer to the budget request, the original request was $257 million to the Department. OMB has approved $247 million. That request was before we developed a new working relationship with the FBI. We would like to watch this work, let it work——

IMPACT OF LEAN BUDGET

Senator WEICKER. You know what I am afraid of—and I talked to the FBI, I talked to Justice and I talked to you—I see the declining personnel in light of increased problems; everybody has new management plans; new management plans are going to go ahead and solve this. I don't feel that the personnel are necessarily the answer to all of our problems in the law enforcement field. There are solutions we should turn to in terms of continuing education, many situations such as that, but I just don't understand how even one man should be cut from your agency; I really don't.

DEA STAFFING

I think we all recognize this is a real problem, and it certainly isn't getting smaller. I can appreciate new management techniques, and I am sure you are all more brilliant than the people who headed up the agency before you, and all the rest of that. What is the total personnel in DEA?

Mr. MULLEN. Close to 3,900, including 1,860 agents. Three thousand nine hundred and fifty-three positions; 1,872 agents.

Senator WEICKER. One thousand eight hundred agents for the United States of America.

Mr. MULLEN. The world. We have 178 overseas.

Senator WEICKER. No. 1, anybody who wants to get into this line of work, I think, has to be half nuts; I really do. It takes a great deal of courage. When I see the agent or the agents you might have in Hartford—maybe a few more in New York—what they have to cover and what they have to confront, boy, I'll tell you, if I were them, I would want as much backup as I could get.

Mr. MULLEN. We work with others. For example, in New York City, we have a joint task force. DEA puts in the resources, the vehicles, the communications; we pay the overtime. So there may be few agents in the areas, but by utilizing what is available to us, we become more effective.

I am not saying we are smarter or more brilliant than those who preceded us, but we have better tools now with the change in the Posse Comitatus Act, with the repeal of the ban on paraquat and with the bail reform legislation on the Hill. If that is approved, I think we are going to be much more effective because of those reasons.

SEPTEMBER BUDGET REQUEST

Senator WEICKER. Claudia advises me that last year we added 490 positions. Have those all been filled?

Mr. MULLEN. No; we did not add 400 positions.

Senator WEICKER. The President's budget request was for 3,463.

Mr. MULLEN. I see. Yes, we did.

Senator WEICKER. That was his request, and we added 490 to come to the 3,953 level.

Mr. MULLEN. Yes; we did add those positions. That is when there was talk of reducing the DEA budget to $201 million. At that time, I advised the Attorney General, and I am sure he advised the President; I also testified on the Hill that this would be devastating.

WORK-YEAR REDUCTION/IMPACT ON POSITIONS

Senator WEICKER. How many positions now in this request?

Mr. MULLEN. Three thousand nine hundred fifty-three.

Senator WEICKER. The same as last year.

Mr. MULLEN. Correct.

Senator WEICKER. One hundred work-years reduction. What does that translate to in people?

Mr. NEILL. It can vary.

Mr. MULLEN. It takes more agents to make up a single work-year.

Mr. ARNOLD. It's a difference between a 2-percent lapse rate and a 5-percent lapse rate.

Senator WEICKER. How does that relate in people? If we had no reduction in work-years, what would you have in added people?

Mr. ARNOLD. We would have an additional 100 people working for 1 year.

Mr. MULLEN. What the chairman is asking, it takes 110 agents to make 100 work-years; I think something like that. We need 110 people to actually make up 100 work-years. You take into account leave without pay and so forth.

Mr. NEILL. I am not sure if the question you are asking relates to the number of positions.

Senator WEICKER. I am simply asking if you have the bodies to do the job.

Mr. MULLEN. My answer to that is yes, we do. We have undertaken some of the investigations we have underway with the help of the

military, as I indicated, with the rescinding of the paraquat ban. We have undertaken domestic eradication programs, new undercover investigations. Yes; we do have the bodies to do the job.

Senator WEICKER. I have other questions which I am going to go ahead and submit for the record. I just hope, and I want to take a little closer look at this issue we have been discussing, but there are places where the budget ought to be cut, and yours is not one.

Mr. MULLEN. It is not being cut for 1983. It is actually an increase——

Senator WEICKER. It's a dollar increase; it's a personnel cutback. Can you assure me that in terms of the job to be done it won't be cut back?

Mr. MULLEN. That's correct. It will not reduce programs——

Senator WEICKER. That is a small consolation. Many people feel you should be increasing your program efforts.

Mr. MULLEN. In effect, Senator, we are because of the increased involvement of the FBI, the joint task force operations. We have them ongoing around the country now. I think with the new flexibility, we can put them where they are needed. I think we can be very effective. I can cite examples of where you have a local problem in the city, ask for DEA help and we send in undercover agents. We will work with the local authorities; it is not just a DEA job alone.

Senator WEICKER. Well, it has been. You work with local law enforcements agencies, but the FBI situation is of relatively new vintage here, and this assumes the fact they don't have anything to do, that they are not up to their eyeballs in other types of work. I hope this does work out, and I think the cooperation is absolutely necessary if we are going to be effective in this area.

In any event, I think I have made my point. I will take a look at it and the other questions will be put to you for the record.

FOREIGN STAFFING/OPERATIONS

How many do you have in foreign activities?

Mr. MULLEN. One hundred seventy-eight agents, a total of 276 overseas.

Senator WEICKER. Is that an area the FBI also works?

Mr. MULLEN. DEA is very operational overseas. They work much more closely with local authorities, with the foreign police on identifying traffickers, lab sites, and so forth. The FBI is more in a liaison capacity. They are not operational at all overseas. They merely pass information between U.S. authorities and the foreign police. The foreign police conduct the investigation.

In areas like Southeast Asia and Latin America, we must have a greater DEA involvement to get the eradication programs, to identify traffickers, so forth.

1982 DRUG OUTLOOK

Senator WEICKER. What do you see as the biggest drug problem right now in the year 1982 of the various substances being used? What do you see as the rising star?

Mr. MULLEN. The rising star is cocaine. That is the fastest growing problem that we have as far as death rates, those reported by hospital emergency rooms. There were 170 deaths last year and almost 3,000 injuries. It's not the social drug that some have us believe that it is.

We call heroin No. 1 priority because we had between 780 and 800 reported deaths through overdose last year. That is the one that kills, and that is why we concentrate on that as No. 1. The cocaine problem has grown very fast. The problem with cocaine, as with marihuana, is the attendant violence we have seen in Miami. Some figures I saw, in 11 months of 1981, there were 321 murders in Dade County, 107 related to drug trafficking. It is the attendant violence. I see that as the growing problem.

With regard to heroin, we see bumper crops coming in from Southeast Asia, and we also see a resurgence of activity in Mexico. So heroin, I am sure, will continue to be a problem in the future.

Dangerous drugs are another area. These are the pills, many of which are manufactured in this country. They are second only to heroin—not second to heroin, it is worse than heroin as a problem with regard to overdose, deaths, and so forth. This is a problem amongst our youth. They are all problem areas, but the fastest growing is cocaine.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. Thank you very much. If there is anything further that you feel we should have, aside from responses to our questions, any further information, don't hesitate to be in touch.

Mr. MULLEN. We are on the right track.

Senator WEICKER. I wish you all the best in the world.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

Workload Measures

Your budget justification indicates a decline of 10,000 investigative hours in 1983 and an increase of 130 arrests over 1982. Is this increase in arrests due largely to the new involvement with the FBI since your own resources are estimated to decrease by 100 workyears?

The projected increase of 130 DEA-initiated arrests in FY 1983 results primarily from increased enforcement effectiveness and the continued overall trend of increased total arrests since 1979. Undoubtedly close DEA/FBI cooperation will assist in achieving increased arrest totals.

The workyear reduction will not impact on the agent workyears or agent positions in 1983. The reduction is to be applied to non-agent positions only.

Heroin Purity Levels

The purity level of heroin coming into the country in 1981 was 4.3 percent. What accounts for the increased level which is higher than the 4 percent target set by DEA?

The purity of heroin at the U.S. retail level was 4.3 percent in the fourth quarter of 1981, the first time in three years that U.S. heroin retail purity has risen above 4.0 percent. In the first quarter of 1982, U.S. heroin purity dropped back below the 4.0 percent level to 3.9 percent. The 4.0 percent level is still our target, although all indicators point to continued availability of Southwest Asian heroin and increased availability of Mexican and Southeast Asian heroin through 1982. The fact that we have been able to hold heroin abuse in this country to moderate increases despite abundant supplies of Southwest Asian heroin on the international illicit market speaks well of the intensive U.S. effort mounted against this drug. Federal drug control resources are now challenged to maintain the same level of offensive against heroin coming from three major foreign sources located in separate areas around the world. Extensive heroin control programs have already been established and intensified. These programs significantly multiply the leverage of total existing drug control resources through an integrated heroin suppression effort by international, federal, state and local control elements.

Role of FBI

Explain the system which DEA and the FBI will use in administering the new FBI/DEA coordinating efforts to immobilize major traffickers. What major role will the FBI play?

At the Departmental policy level, the forum for Cooperative Strategy, attended by high ranking officials with criminal justice re-

sponsibilities, oversees the development and implementation of the federal drug law enforcement strategy.

The DEA Administrator will direct the day-to-day activities of the agency; the Director of the FBI will oversee of both agencies.

On March 12, 1982 DEA Administrator Mullen and FBI Director Webster signed the "Implementation Directive for Concurrent Drug Jurisdiction between the Drug Enforcement Administration and the Federal Bureau of Investigation". This document establishes procedures for coordinating drug investigative activity. The Directive also directs the creation of a Headquarters Review Committee to monitor the implementation of the procedures, to develop new national-level initiatives and resolve problems referred by field office management.

How specifically will it benefit DEA's efforts?

While DEA will be the principal drug enforcement agency, the concurrent drug investigative authority of the FBI will result in increased joint investigations, as well as investigative resources to supplement those of DEA. The FBI informants and data bases will be available to DEA investigators. The drug violation aspects of organized crime and white collar crime investigations will be enhanced. The investigation of financial aspects of drug cases will be expanded. Electronic surveillance in drug investigations will be significantly expanded. DEA agents will be cross trained through the FBI academy and field activities. The FBI laboratory will process non-drug evidence.

How are these investigations being coordinated with the Bureau?

The specific areas of responsibility and precise coordination between the agencies will vary with the locale, the nature of the local drug problem, the availability of resources and the extent of the drug/crime problem in a particular field division. FBI and DEA field office managers have been tasked to identify the drug enforcement needs of their area and to coordinate their activities, subject to all appropriate supervision from headquarters.

DEA will continue to be responsible for the coordination of the drug enforcement effort with state and local enforcement agencies. This responsibility will also carry over in relations with the balance of the federal community with drug interdiction responsibilities. Finally, DEA will continue to be responsible for the conduct of drug investigations in foreign countries, in order for the United States Government to present a single point of contact for our foreign drug enforcement counterparts.

When DEA and the FBI work together in the field on a case, who is in charge of the investigation?

In general, the agency that initiates the investigation and develops the primary investigative information will be in charge. In these cases, a written operational plan will be agreed to by both agencies and this plan will indicate which agency will be in charge.

Headquarters will be kept abreast of the regional activities and activity status.

With the consolidation of DEA and FBI can some of the support operations common to both agencies (i.e., training, labs, and support equipment) be consolidated at significant savings to the government? What efforts have been made to study the possibility?

After study commissioned by the Attorney General it was decided that the DEA and FBI exist as separate agencies with the Administrator of DEA reporting to the Attorney General through the Director of the FBI. Development of support systems will continue to be coordinated with a view to ensuring the most economical and compatible operations. It is not now planned that the support operations common to both agencies will be consolidated.

Any evidence submitted for analysis to laboratory facilities of the other agency will be processed for analysis with the same priority as if submitted by personnel of the same agency. Due to the increased involvement of the FBI in drug cases, the DEA laboratories will have an increase in drug evidence workload.

Cross-training of agents will be done at the respective training facilities.

We would anticipate that there would be a significant impact on the drug traffic through the more efficient use of currently available resources in the DEA and FBI, as well as other agencies.

Agreements with IRS

Explain the agreement which FBI/DEA made with IRS to increase DEA expertise in conducting financial investigations.

At the present time, the only agreement that DEA has with IRS which would involve the area of financial investigations is the Memorandum of Understanding between IRS and DEA which was updated in 1980. This agreement provides for training of DEA personnel by IRS instructors at the two-week financial investigations school which is now held at Glynco, Georgia. Additionally, training by IRS to DEA field elements is conducted on financial investigations upon request.

The memorandum also provides for the assignment of IRS personnel to DEA CENTAC units to analyze money flow, seized financial documents and records and to determine the feasibility of charging targeted defendants with tax violations or civil jeopardy assessments when Title 21 charges may not be possible. In addition to the CENTAC program, field units are encouraged to become involved in joint IRS-DEA grand jury investigations to produce both tax, as well as drug charges within the same indictment. DEA continues to provide IRS, on a quarterly basis, lists of Class I and II violators for IRS consideration for possible tax investigations.

State and Local Drug Task Forces

According to the budget justification, 67 percent of the workhours of the Joint Task Forces are devoted to Class I and II investigations. Yet, only 30 percent of the arrests are Class I and II violators. What accounts for this disparity?

A direct correlation cannot be drawn between DEA/state and local task force arrests and DEA workhours devoted to the task force program. Task force arrests are the result of the total federal, state and local task force effort. The primary target of this effort is the mid-level violator, as reflected in a high percentage (69 percent) of Class III and IV case arrests. Workhours, on the other hand, reflect DEA participation only. One of DEA's major objectives for the program is to achieve a measurable upgrade in the level of violator targeted in task force cases, consequently a high percentage (67 percent) of DEA task force workhours is invested at the Class I and II case level. The continual effort to orient state and local enforcement efforts towards all levels of the illicit drug traffic has enhanced overall task force effectiveness. Although the total number of DEA workhours devoted to the program has decreased two percent since 1979, Class I and II task force arrests have increased 16 percent and Class III and IV case arrests have increased two percent between 1979 and 1981.

In FY 1983, $12,248,000 is requested for the Task Forces. Has DEA been able to interest state and local governments in picking up a greater portion of the cost?

DEA has initiated serious efforts to have the state and local governments assume a greater portion of task force costs and has experienced limited success. Over the past years all basic salaries paid to state and local police officers assigned full-time to task forces have been eliminated. In some task force situations, the state and local police are providing office space and other facilities for the DEA agents. DEA currently has operational task forces in Baltimore, Maryland and Charleston, West Virginia where no funding or reimbursement is provided to the state and local governments for any expenses.

Targeted Registrant Investigation Program

Could you explain how the Targeted Registrant Investigation Program works? Specifically, how are potential violators identified? How many actual arrests were made in 1980, 1981 and 1982 and what number of convictions were obtained?

The Targeted Registrant Investigation Program (TRIP) is an outgrowth of Operation Script which showed that certain violative practitioners were Class I and II level violators responsible for diverting millions of dosage units into the illicit traffic.

DEA's targeting procedure consists of identifying violators by state. All violators in each state are then ranked one through five according to anticipated priority for an investigation. These state lists are then combined into an overall ranking. A profile is developed on all registrants on the prioritized list utilizing the Automation of Reports and Consolidated Orders Systems (ARCOS), which tracks substances from point of distribution or export to the dispensing level; the Drug Abuse Warning Network (DAWN), which provides hospital emergency room and medical examiner data on drug abuse episodes; and other federal informational sources.

Through this process certain violators will surface as clearly justifying federal investigative effort in line with G-DEP criteria. If a G-DEP I or II violator is not indicated, the profile and all other available information are referred as an integrated package to the appropriate state, where the primary responsibilty for practitioner diversion lies. Only the relatively few number of practitioner diverters on the point of a conceptual "violator pyramid" whose activities appear to be either of such a conspiratorial or violative nature as to warrant immediate and appropriate federal attention are referred to DEA field investigators for action.

The number of registrant investigations resulting in arrest has increased substantially as TRIP has become operational. There were 35 arrests in 1980, 81 in 1981, and 81 to date during the first half of FY 1982.

DEA practitioner cases are successful in terms of conviction. To date, no DEA diversion case has resulted in an acquittal. One case resulted in a "no true bill." In another case the criminal indictment was withdrawn and the defendant was prosecuted in a civil proceeding.

GAO Access

One of DEA's program direction budget's major objectives is the responsibility for providing Congress information necessary to carry out legislative and oversight responsibilities. Congress relies heavily on its investigative arm of the U.S. General Accounting Office to audit the executive agency programs and report to Congress as part of the oversight process. Recently we understand that GAO has been having access problems at DEA and is being hampered in carrying out its responsibilities. Is this true?

What restrictions are being placed on GAO's right to access? What legal restrictions do you believe restrict GAO's access to all internal agency files and records? Please provide a full and complete response for the record regarding any changes recently in the GAO/DEA relationship.

It is DEA's policy to fully cooperate with GAO and to respond to their requests. Because of a significant increase in the number of GAO studies in recent years, it has become important to take steps to minimize possible disruption to DEA's operations. DEA regularly has provided access to sensitive data pursuant to GAO's studies. Based on a recent agreement between DEA and GAO, increased information relating to active case files and sensitive internal documents will be provided. GAO, in turn, has made assurances that appropriate security safeguards will be taken to protect this information.

Paraquat Programs

The budget justification describes one of the objectives of the Foreign Cooperative Program as promoting, assisting, and advising countries in the planning and implementation of eradication programs. What types of eradication programs are we promoting?

The United States Government promotes both manual and chemical eradication of illicit opium, coca and cannabis, depending on the scope of cultivation and environmental impact. Chemical spraying is not feasible for small plots of illicit cultivation, particularly when these plots are interspersed among agricultural crops. On the other hand, manual eradication in large areas of cultivation is both labor-intensive and extremely time-consuming.

When you refer to chemical eradication, I assume you mean paraquat. Are there any less controversial alternatives?

There are some chemical alternatives to paraquat for cannabis and opium eradication. The Government of Mexico uses 2-4-D in its opium eradication program. We are also exploring the manual (versus aerial) spraying of 2-4-D on coca as part of the crop eradication program.

However, paraquat is quick-acting and decisive, and recognized by the United Nations as the most effective and readily available herbicide worldwide. It is a commonly used weed-control agent for agricultural purposes in many countries.

How many countries are using paraquat now?

The Government of Mexico has been successfully using paraquat for cannabis and opium eradication since 1975.

Is there serious consideration being given to using paraquat in this country?

Yes. We anticipate that paraquat will be used during 1982 in domestic cannabis eradication campaigns in those states where its use is deemed both feasible and environmentally safe.

Foreign Cooperative Intelligence Program

DEA has an extensive foreign cooperative intelligence program. Will the FBI in any way assume any of this responsibility from DEA?

No. The U.S. Government must speak with singular voice in drug enforcement matters with foreign police. There will be no organizational change in DEA's foreign program. DEA will continue to handle all drug enforcement and liaison matters. Investigative leads, whether developed by the FBI or DEA, will be followed up by DEA overseas.

The budget refers to the fact that DEA is opening offices in Yugoslavia and Cyprus, and possibly Bern. How many overseas offices does DEA have?

DEA currently has 60 overseas offices. We are now planning to open offices in Barranquilla, Colombia; Curacao, Netherland Antilles; Nicosia, Cyprus; Belgrade, Yugoslavia; and Bern, Switzerland.

The justification describes Yugoslavia and Cyprus as key Southwest Asian heroin transiting countries. We don't often associate Communist countries with having relaxed borders. Is much illicit drug traffic going through Yugoslavia? Where will your office be located there?

One of the principal land routes across Europe from the Middle East and Turkey is through the Balkan States, particularly by way of the main road through Yugoslavia. This traditional route traces its ancestry back to the earliest days in European history. Over the past several years, some of the largest heroin seizures made in the world have occurred at a remote but important border crossing at Gradina, Yugoslavia (on the Bulgarian line). In 1980, in 57 separate cases, the majority of which concerned Turkish traffickers, a total of 301 kilograms of heroin was seized by Yugoslavian Customs Police at this one station. This fugure has dropped somewhat because of the success of the Yugoslav enforcement effort. Yugoslavian authorties have advised that, without exception, all the heroin seized was destined for either Austria or the Federal Republic of Germany.

On the questions of Yugoslavia's political status and its role in international drug control, it should be noted that the differences which exist between economic and political systems bear little or no adverse impact on our mutual interest in drug control. For many years Yugoslavia has been a cooperative and responsive member of INTERPOL, having been the first Eastern Bloc nation to join this organization. Within the past year, the United States has provided training by American Customs and DEA agents to Yugoslavian Customs authorities. As a result of continuing liaison program in Belgrade, a DEA representative from Vienna, Austria, who regularly travels to the area, is notified of all important drug seizures that occur in Yugoslavia. This notification, along with the vital details of the case and the description of suspects, is communicated from the Yugoslav Customs chief to DEA in Vienna usually within days or even hours after a significant seizure occurs. The actual messages are sent by cable between United States embassies in Belgrade and Vienna. To reinforce this liaison and to increase the effectiveness of this cooperative enforcement program, DEA intends to establish a district office at Belgrade.

Cyprus' geographical position lends itself well to traffickers pursuing maritime smuggling operations in the Middle East, particularly in the area of Lebanon. Furthermore, the cooperative and dedicated law enforcement agencies in Cyprus have demonstrated their desire to police their island and its coastal and territorial waters. The DEA has received permission from the United States Department of State and the Government of Cyprus to establish an office in Nicosia.

To what extent are other Eastern block countries affected by drug trafficking and are they cooperating with DEA?

The other principal nation within the Eastern Bloc, besides Yugoslavia, which is used as a conduit for the transit of drugs is Bulgaria. We have had some contact over the years with authorities in Bulgaria and, from all indications, it would appear that these authorities would like to see an increase in this liaison program. However, as a result of what appears to be a lack of sincerity or commitment on the part of the Bulgarian government, we are not optimistic about stepping up such a program until or unless these prevailing conditions change. Once a trafficker decides to cross the Balkans through Bulgaria he is committed to continuing along the land route through Yugoslavia. Based on the performance of the Yugoslav authorities and their open and cooperative spirit, we feel that our most effective choke point is—and will continue to be—the border entry crossing at Gradina, Yugoslavia.

It should be noted that, despite similar economic and political systems, the Eastern Bloc nations vary widely in their commitment to international drug control as well as their effectiveness in pursuing transiting drug violators. However, both privately and through tolerated popular magazines and media, there are growing indications that even the bloc countries are beginning to experience internal drug abuse problems. We have received encouraging invitations for cooperative liaison and training from officials in Czechoslavakia, as well as in Hungary and Rumania. Before the current problems in Poland, a DEA agent from West Berlin had visited Warsaw on several occasions after important drug seizures and in one instance where fifty kilograms of heroin were seized, DEA requested and received a sample of the drugs for special analysis by the DEA Special Testing and Research Laboratory.

The diversion of methaqualone from international commerce directly affected the country of Hungary. Hungary produced 14,500 kilograms of methaqualone in 1979 and 21,500 kilograms in 1980. At the time, Hungary was believed to have been the largest world producer of methaqualone; most of this Hungarian-produced methaqualone was exported to West Germany or Switzerland.

In January 1981, DEA made representations to the Government of Hungary regarding the problem of legitimately manufactured substances diverted into illegal channels--specifically, Hungarian-produced methaqualone. Hungary immediately curtailed the production and exportation of methaqualone and has, therefore, been eliminated as a source country. Additionally, Hungarian government officials have expressed a desire to cooperate with DEA in other matters concerning international drug control issues.

It is known that pharmaceuticals are produced and exported from various Eastern Bloc and Asian countries. Additional monitoring and information collection is necessary to establish the extent of this pharmaceutical export market.

It should be noted that <u>any</u> foreign country, including those in the Eastern Bloc and more recently countries in Asia, who are major producers (sources) of commonly diverted legitimate drugs could potentially be affected by drug trafficking and may be identified in the future.

EPIC

Now that the El Paso Intelligence Center (EPIC) falls under the FBI umbrella, how will drug intelligence sharing and utilization be affected?

The Drug Enforcement Administration will continue as a separate organization within the Department of Justice. As such, DEA's lead role at EPIC will not be affected. The closer working relationship between the DEA and the FBI will include FBI participation at EPIC. This should enhance drug intelligence sharing and utilization among all agencies and states that participate in the EPIC program.

Will the FBI take a more active participating role in assisting

other federal, state and local agencies with organized criminal intelligence relating to drug offenses?

The implementation plan for concurrent jurisdiction reiterates that DEA will continue to be the principal federal drug enforcement agency responsible for drug intelligence analysis and the publication of appropriate strategic assessments. There will be a greater exchange of intelligence information between DEA and the FBI; but DEA will remain the agency responsible for disseminating drug-related intelligence to other federal, state and local agencies.

Assistance from DOD

The Department of Defense (DOD) can now assist you in detecting smugglers. Are you getting billed for their services?

Although the regulations (published April 7, 1982 in the Federal Register) implementing P.L. 97-86 permit the Defense Department elements to charge for reimbursement for assistance provided to civilian law enforcement, DEA is not now being billed by DOD.

Seized Assets

Can seized assets (which include cars and aircraft) provide DEA with suitable vehicles through the forfeiture process to reduce the need to purchase additional transportation equipment?

Not very much; the provisions of 21 U.S.C. 881 allow DEA to seize all vehicles, vessels and aircraft used to facilitate drug violations. The conveyances valued at less that $10,000 are forfeited administratively by DEA, unless a claim and bond are filed to make the forfeiture judicial. Conveyances valued at more than $10,000 are forfeited judicially, and although some of the civil proceedings to complete such forfeitures take time, DEA ultimately places such property in use in many cases.

DEA has acquired cars, aircraft and boats through seizure. However, we can expect to acquire a limited number through this means due to the following reasons:

- Many seized items in drug trafficking investigations are not forfeited to the government as the aircraft owner is judged to be an innocent party.
- Many aircraft are not owned outright by the trafficker. Therefore, any outstanding lien must be satisfied by the government. These frequently exceed $100,000.
- Most traffickers do not keep required maintenance records, nor is required maintenance performed. Therefore the seized vehicles, boats and aircrafts may be too expensive to maintain.
- All seizures are not suitable for DEA use. Many are special-purpose vehicles, i.e., trucks, campers, motor homes, motorcycles, etc., and many are not economical for DEA use. Further, as violators become more sophisticated and more aware of federal seizure authority, we find that fewer vehicles, which would

otherwise be subject to seizure, are owned by the violators. Violators are leasing vehicles in many cases and making only minimum down payments in other cases. Innocent third parties, such as rental agencies and lien holders, are given custody of the vehicles in these instances.

- The forfeiture process takes considerable time (sometimes years). This results in property under seizure deterioriating. Due to the uncertainty of the process and the time involved, a replacement schedule could not be maintained from this source.

Coordination with Foreign Countries

What policy guidance has the President's Strategy Council provided DEA in coordinating drug law enforcement matters with foreign countries?

The FY 1982 Federal Drug Abuse Prevention and Control Strategy, which will address this question, is currently under development by the Office of Policy Development.

Mobile Task Forces

Are Mobile Task forces and Central Tactical Units the major investigative vehicle for concentrating on major trafficking organizations?

Mobile Task Forces (MTF) and Central Tactical Units (CENTAC) are two of the major investigative vehicles for concentrating on major trafficking organizations. CENTAC's are directed from headquarters, while MTF's are directed usually by a designated field office.

Both Mobile Task Forces and Central Tactical Units are provided with increased resources from headquarters to accomplish their objectives.

In addition to the above investigative vehicles directed against major organizations, all DEA field offices, individually or collectively, within assigned resources investigate major traffickers and their organizations in that the preponderance of Class I and II cases by definition, have identified multi high-level violators.

How are these organizations targeted?

Targeting of major organizations may evolve in numerous ways; for example, a DEA field office or number of DEA field offices may perceive the need for a CENTAC or MTF for targeting a major organization when the scope of the investigation is beyond their available resources. Or, DEA headquarters might identify a major target by reviewing data from various intelligence sources as well as enforcement case files, and headquarters would recommend that a CENTAC or MTF be established.

For all proposals to establish a CENTAC or MTF, an operational plan is submitted to DEA headquarters detailing the trafficking organization, its operation, and the method and estimated costs of the

proposed investigation. In all cases, headquarters determines the priority of targeting these major organizations.

Investigations of major drug organizations (Class I and II cases) performed by field offices within assigned resources are targetted by means of DEA's Geographical Drug Enforcement Program (G-DEP) system, which classifies the case by level of violator(s) and other factors.

How many have been investigated?

Since the inception of MTFs in 1970, DEA has conducted 274 MTF's all of which may be considered as directed against major trafficker organizations. In addition, the CENTAC investigative method, in use since 1973, has been utilized 25 times to investigate major organizations.

The statistics associated with MTF's and CENTAC's, although impressive, do not represent the total effort directed against major trafficking organizations. The ongoing number of Class I and II investigations conducted by field offices are primarily directed against major organizations; for example, in 1981 DEA arrested over 4,700 violators in Class I and II cases and allocated approximately 70 percent of the total domestic investigative workhours to such cases. The number of ongoing Class I and II investigations is not readily available; however, following implementation of the EMIS-II system (Enforcement Management Information System), now under development, DEA will have the computer capacity of determining the number of ongoing Class I and II level cases at any particular time.

How many have been eliminated?

Although DEA has been instrumental in eliminating major trafficking organizations, it is impossible to certify that such groups have been eliminated permanently and thus we cannot quantify such success. DEA's primary thrust is to severely immobilize drug trafficking organizations; in those efforts we have been successful, and can measure the results with some degree of accuracy. Since 1977, CENTAC's have indicted over 1,270 defendants and approximately 57 percent of those traffickers were Class I and II violators. Statistics for the MTF's, which are also targetted against major organizations, are not readily available; however, because of the greater number of MTF's, we can conservatively state that MTF indictments and arrests over the same time frame are at least threefold the number produced by the CENTAC's. Further, DEA's Domestic Enforcement Program has consistently achieved 6,000 or more arrests per year since 1977, for DEA initiated cases. On the average, 63 percent of these arrests have resulted from Class I and II cases, which with few exceptions are targetted at major drug organizations.

Joint Task Forces

What operation plan is there for managing the joint DEA/FBI resources applied to drug-oriented investigations?

FBI Director Webster and DEA Acting Administrator Mullen have approved an implementation directive for concurrent drug investigative

jurisdiction between the DEA and the FBI. This implementation plan describes the major roles that each agency shall play, assures the coordination of investigative activities, describes cross-training goals and establishes procedures for resolving disputes. A keystone of this implementation plan is the development of a Headquarters Review Committee consisting of FBI and DEA representatives. The purpose of this committee is to monitor the implementation of this directive, develop new national drug initiatives and resolve any problems referred by field office management.

How will joint operations be targeted?

DEA and the FBI field office managers will identify major drug trafficking groups in their divisions and thereafter either individually or jointly target them for investigation utilizing the available resources and expertise of both agencies. In all field offices DEA and the FBI will each assign an experienced special agent on a liaison basis for the purpose of insuring day-to-day coordination and cooperation in investigative matters. Certain types of joint investigations will require headquarters approval for both organizations.

Who will be in charge?

In general, the agency that initiates the investigation and develops the primary investigative information will be in charge. It is expected that a high level of cooperation will exist between the DEA and FBI and will result in a large number of joint investigations. In these cases a written operational plan will be agreed to by both agencies and this plan will indicate which agency will be in charge.

How many FBI agents/resources will be devoted to drug investigations?

The FBI estimates that in the current fiscal year, 300-500 FBI workyears will be devoted to drug investigations. FBI involvement, however, in drug law enforcement is not a new phenomenon. For the past four years, the FBI has been developing drug investigations as it follows through on organized crime, public corruption and white-collar/financial investigations. Thus if, as the FBI has stated, it will commit between 10-15 percent of its resources for drug law enforcement, not all of this commitment represents resources heretofore not applied to drug law enforcement. Resources have been committed in the past; this commitment is being enhanced in accordance with the Attorney General's mandate.

There are many areas where current FBI activities can immediately be refocused toward drug investigation work without significant "retooling" and obligations. This can be seen, for example, in the application of FBI resources and experience toward the apprehension of drug fugitives, the conduct of electronic surveillance, the conduct of drug-related financial investigations, the enhancement of the DEA training programs, the utilization of FBI criminal data bases and forensic laboratories and the general infusion of manpower to support drug law enforcement operations.

Overall, we believe that the involvement of the FBI in drug law enforcement will have synergistic effect--the combined resources of the DEA and the FBI will be greater than the sum of their individual contributions.

Which agency will maintain case files and records on joint operations?

As part of any operational plan for a joint investigation, a decision will be made as to which agency's recordkeeping system will be used. The Headquarters Review Committee will develop procedures for indexing into agency files. This will assure a full exchange of information in keeping with a mandate of complete mutual support.

Pre-Registrant Investigations

DEA conducts investigations on all applicants for DEA registration. The chart on page 24 shows that the number of pre-registrant investigations conducted increased from 1,414 in 1980 to 2,035 in 1981; for 1982 and 1983, the number of pre-registrant investigations is estimated at 1,500 each year. Considering that the number of applicants for DEA registration increased so markedly from 1980 to 1981, why is it estimated that the number of applications will decrease in 1982 and then remain at that level in 1983?

During the fall of 1980, the National Cancer Institute secured permission from the U.S. Food and Drug Administration for the use of THC (tetrahydracannabinol) in a widespread research project for the treatment of nausea associated with chemotherapy. THC is the active ingredient in marihuana, a Schedule I controlled substance. This research project received great media attention and was extremely popular with physicians in the oncology field.

During FY 1981, the DEA registered approximately 600 hospitals for participation in the THC research project. THC is now available in most parts of the country for patients requiring this research drug. The DEA thus anticipates a noticeable decline in this workload requirement during FY 1982.

The decline in workload projections from the completion of the THC project is not anticipated to result in pre-FY 1981 projections. This is due to a very gradual increase in the registrant population which will require slight workload increases in FY 1982 and FY 1983.

Compliance and Regulation

On page 24 of your justification, it is stated that information provided through investigations will support rescheduling actions and quota reductions. What are the positive effects such actions and reductions produce in terms of reducing abuse?

The scheduling of a substance imposes a range of controls on prescribing, distribution, production, facility security, and recordkeeping. These controls are intended to reduce diversion by making its detection more likely.

The production of Schedule I and II drugs is controlled through quotas. Authorized production is limited to estimated legitimate medical needs. When investigative information suggests substantial diversion and abuse of a Schedule I or II drug, a reduction in the production quota may be justified since the legitimate needs are

being met, yet a significant portion is still being diverted to the illicit market.

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Regulatory Programs

Cyclic investigations consists of "regularly scheduled checks on non-practitioner registrants" to detect violations. Are these investigations random and unannounced, or are the registrants informed of them before hand?

Cyclic investigations are unannounced and are generally scheduled every three years on nonpractitioner registrants. The cyclic investigation program provides intelligence and "lead" information with respect to practitioners who are purchasing excessive quantities. The program is further designed to uncover security breaches, inventory discrepancies, or other violative practices which could result in administrative, civil or criminal action against the manufacture or distributor.

DEA has recently revised the criteria upon which cyclic investigations are based resulting in more workyears being devoted to potentially violative firms, and less time spent on firms with no diversion history or which do not handle the more common drugs of abuse.

Have all targets of TRIP investigations been G-DEP I and II level violators? If not, how were these investigations of lower level violators justified, and what positive results have occurred in these investigations?

The majority of all DEA TRIP investigations are at the Class I and II level. However, TRIP has been designed to interface directly with the DEA's state and local assistance activities. In many cases a practitioner level violator will be a significant source of diversion with without technically reaching a Class I or II level. For example, if one practitioner purchased quantities of Diluadid equal to all the Diluadid purchased in the State of Massachusetts in a one-year period, he would still not be operating at a Class II level.

TRIP provides for a targeting procedure which includes consultation with state enforcement agencies regarding suitable targets. In most cases the major state targets are operating at high levels and the DEA will work the cases either jointly or independently. Generally, these cases will result in Class I or II's. In some instances a state will identify a practitioner as the major registrant violator in the state, although this target falls short of the federal threshold (Class II). In these instances field investigations may solicit management review of the trafficking situation in the affected state. If management determines that the target is especially important within the state, it may classify the target under TRIP in order to provide direct assistance on the most egregious violator(s) in this this particular area.

As part of its intelligence gathering activities does DEA Office of Intelligence still prepare major organization reports identifying the top violator organizations by type of drug and organized crime? If so, how many organizations does DEA have?

The Office of Intelligence continues to prepare and disseminate a wide variety of standardized and special profiles, analyses and reports identifying major narcotics traffickers and laying out the structure of their organizations and operations, irrespective of the type of drug or activity involved.

In the past, the Office of Intelligence prepared and disseminated a series of major Violator Books, so-called "Top Ten Lists". However, because of the fluid nature of narcotics trafficking, and the rapid changes which characterize this trade, Intelligence program managers determined that this medium was no longer an efficient or effective way to keep headquarters and domestic and foreign field elements updated on current events.

The Office of Intelligence relies now on the Geo-Drug Enforcement Program (G-DEP) and close coordination with field elements to identify and target major violators for research and development efforts. The G-DEP is DEA's system for managing its enforcement activities to assure that they are directed at the highest level of violators, and at those drugs which are of the highest priority. By these means, more timely and accurate coverage of violators, groups and activities is achieved; as a result, intelligence efforts more closely reflect current investigative efforts and priorities. In addition, this system enables the Office of Intelligence to more rapidly and effectively respond to changes in field requirements for support, and it alleviates the time-consuming logistical problems associated with maintenance and upkeep of several hundred Violator Books.

The Intelligence Program, including headquarters and domestic and foreign field elements, monitors the activities of a considerable number of top narcotics violators and groups, and is no longer constrained by quantitative limitations on the number of significant targets it can (or should) provide support against.

Does DEA provide foreign host governments with names of DEA's top international organizations it wishes targeted for informant action? If so, how are these organizations identified? And how responsive have host governments been at following up?

Through an active enforcement and intelligence liaison program, DEA furnishes foreign police officials information regarding major targets of mutual interest. These targets are identified either as a result of historical discovery through routine or special investigations conducted in the United States and elsewhere, or they come to our attention by way of some recent and significant drug seizure. In any case, the importance of the subjects is communicated to the host government authorities along with our requests for an appropriate follow-up investigation. Informants generally, can only penetrate the lower levels of a given criminal (drug) organization. They are used more effectively against individual members of an organization who can be tracked during the development of a substantive case. Above the level of courier or wholesaler, it is unlikely that an unknown informant, acting as an independent contractor, will be given access to the top echelons of an organization.

The vast majority of intelligence on major international organizations is generated by active pursuit of current violators identified either by informants or as a result of a successful enforcement activity. Whether this data generation occurs in the United States or in some foreign area, if it is of a significant value, it will be

collected, analyzed and stored until relevant new data comes along to trigger a new interest in the subject(s). At this time, all relevant data is retrieved and furnished to the appropriate action party (U.S. or foreign) where the desired enforcement activity is to take place. Whatever occurs as a result of this, by itself, generates an additional layer of data about the subject(s) and/or their organization. When several similar episodes are observed or when data are matched with existing file references, we consider the matter to have reached organizational status.

We encourage the collection of information aboard by host governments and we attempt to assist in the analysis and storage of such data. Procedurally, however, there are some obstacles brought about by differing legal and policing systems. For example, under Napoleonic-code legal systems (as exist in Europe, Mexico and South America), there are restrictions on the use of an informant in the same sense as they are used in the United States. Further, under such systems, an individual suspected of being a criminal must be condemned (i.e, indicted) by the police on the basis of their information. Under the American legal system a person does not have a Constitutional "right" to be arrested simply because he may have committed a crime. The power of arrest is discretionary and left up to the prosecutors and police. In Napoleonic-based law there is no discretion; indeed a person is required to be arrested when police and prosecutors have evidence of a crime. This, to some degree, limits the value of collecting criminal intelligence on criminals. Unlike in the United States, it theoretically would be impossible under Napoleonic law to have received information from an informant to the extent that such information would incriminate a second party in a criminal action and then, in the pursuit of a greater violation, not pursue the original charge. For the most part, our foreign colleagues do act on DEA-supplied information and intelligence, and impact cooperative removals of drugs totalled 2,065 pounds of heroin and equivalents, 6,368 pounds of cocaine and 357,902 pounds of marihuana in FY 1981.

EPIC

Could EPIC--with its present resources--expand its services to state and local agencies to fulfill the intelligence needs currently being provided by the Multi-State Regional Intelligence Projects being separately funded by Justice?

The El Paso Intelligence Center (EPIC) has grown since 1974 from a border intelligence unit to a 24-hour-a-day intelligence center with worldwide capabilities to provide operational intelligence relating to the smuggling of drugs, aliens and weapons. EPIC supports DEA national and international investigative and intelligence programs. EPIC services numerous requests for information from the nine federal agencies participating at EPIC and maintains specific agreements with 47 state, local and territorial police agencies for the exchange of drug-related information.

The MSRIPs collect and exchange intelligence on local, state and regional figures involved in a wide variety of criminal activities, not limited to narcotics trafficking.

EPIC already provides a considerable amount of intelligence information to various state and local police agencies on narcotics and

related information available through its various data bases. For EPIC to fulfill the intelligence needs being provided by the MSRIPs would require a change in EPIC charter, which specifies the arrangements under which information provided to and disseminated from EPIC is handled. The current mission requirements which EPIC now responds to are seriously taxing EPIC resources--not to mention the impact that P.L. 97-86 clarifying Posse Comitatus may have. To increase EPIC responsibilities to cover additional areas of criminal activity would be impractical and detrimental to ongoing efforts against narcotics.

Organized Drug Trafficking

Does elimination of the highest echelon of a trafficking organization have a lasting impact if the whole organization (all echelons) is not arrested and convicted?

When the highest echelon of a drug trafficking organization is arrested, and fragments of the organization remain, the organization usually either restructures under new leadership and/or is replaced by a competitive organization. The potential for cash profits is so great that there is tremendous incentive for the individual members to continue their activities. We recognize this pattern and intelligence gathering activities and enforcement pressures are continued against the priority organizations.

Does DEA maintain statistics on total organizations disrupted and immobilized?

DEA does not maintain running statistics on the number of total organizations disrupted and immoblized because the dynamics of drug trafficking preclude such data collection. DEA's investigations are directed at major drug trafficking organizations of the highest levels. All arrests in Class I and II cases are related to major organizations. Additionally, conviction rates of major drug violators are recorded and maintained as well as indictments resulting from CENTAC and Mobile Task Force operations, which are established solely for the purpose of immobilizing major drug trafficking organizations.

Forfeitures Resulting from Seizures

What percentage of DEA seizures (FY 1981, $161 million) were ultimately forfeited to the U.S. Government?

In FY 1981 DEA asset seizures, which were available for forfeiture under those statutes enforced by the DEA, totaled $64.7 million.

In FY 1981 DEA asset seizures, which were processed through to forfeiture under those statutes enforced by DEA, totaled $12.9 million. Because of the time required to process forfeitures, in some cases FY 1981 forfeitures result in finalization of the forfeitures process relating to seizures in FY 1980 and even FY 1979.

In FY 1981 DEA was involved with many other agencies in cooperative investigations resulting in seizures, which were available for

forfeiture under the statutes enforced by those agencies or governments. These seizures in FY 1981 totaled $96.3 million. DEA records do not reflect the status of the forfeiture proceedings in these other agencies.

Relationship with Foreign Governments

To what extent are DEA or FBI agents involved in undercover drug operations in foreign countries? Do host governments approve all active investigations involving U.S. agents?

Under the concurrent Implementation Directive, DEA will continue to be responsible for the conduct of drug investigations overseas; the FBI and DEA have agreed that any involvement by FBI personnel in foreign areas must have the concurrence of both headquarters.

Particularly in cases with direct impact upon the United States, DEA agents have traditionally conducted undercover operations in foreign countries, in coordination with host country police counterparts. DEA prohibits its agents/representatives from engaging or participating in any unilateral investigative activity outside the scope of formal or informal agreements developed between the United States and the host government, unless these activities have the express and explicit approval of at least one responsible host government official, the American Ambassador and the DEA Administrator.

Relationship Between Multi-State Regional Intelligence Projects and State and Local Task Forces

How does DEA's state and local task force program relate to the Department of Justice's Multi-State Regional Intelligence Projects?

The two programs must be considered separate entities in both purpose and composition. The DEA State and Local Task Force Program (S&LTFP) is directed toward the investigation, prosecution and ultimate immobilization of mid and high-level narcotics traffickers within the specific area in which the task force operates. The DEA S&LTFP is staffed by DEA special agents and state and local police officers, operating under the direction of DEA.

In addition to their investigative activities, DEA S&LTFP elements also produce and disseminate intelligence which is entered into DEA and associated information systems, thereby making it available for other investigations. Intelligence is also available to the S&LTFP elements, which assists them in carrying out their responsibilities. DEA S&LTFP are usually not multi-state or regional in the nature and scope of their operations.

In contrast, the Department of Justice' Multi-State Regional Intelligence Projects (MSRIPs) have a much broader scope and purpose. The MSRIPs are involved in the collection and exchange of intelligence information on (but not limited to) loan sharking, narcotics, trafficking in stolen property, gambling, extortion, smuggling, bribery and corruption of public officials. Under their original charter, the MSRIPs received funding through Law Enforcement Assis-

tance Administration (LEAA) and the Department of Justice, and their activities were overseen by a review board. Funding is now managed by the Office of Justice Assistance, Research and Statistics. Functionally, each operation is under the direction of a project officer, with virtually no formal or daily relationship with federal law enforcement agencies, including DEA, except through liaison channels.

Finally, the MSRIPs, as their name implies, incorporate the resources and facilities of various state and local police agencies under one project director. This makes them somewhat more regional in the operation as opposed to the more limited scope of the DEA S&LTFP.

Many of the objectives for upgrading the capabilities appear to be similar in the drug law enforcement areas. Couldn't these two separate programs be merged?

While superficially many of the features of the two programs appear similar, in several basic, fundamental areas, they are very different and could not be effectively merged. First, and perhaps foremost, the DEA S&LTFP and the MSRPs function for different purposes.

DEA S&LTFP elements are directed towards investigations, prosecution and immobilization of mid and high-level narcotics traffickers. MSRIPs are directed toward collection and exchange of intelligence information on a wide variety of criminal activities beyond just narcotics. DEA S&LTFP are operationally limited in scope to the specific metropolitan locations in which they are established. MSRIPs are generally regionally oriented and, as their name implies, multi-state in scope. Finally, DEA S&LTFP elements and the MSRIPs maintain different intelligence networks and data bases. Both are specifically tailored to the needs and requirements of their parent organizations, with the appropriate federal, state, and local statutory restrictions applicable to data access and exhange.

Asset Seizures

Since early 1981, what has been the results of intergrating DEA's asset forfeiture program into DEA performance evaluation system?

Beginning in 1979, data on asset activity began to be included in annual reviews of regional, district and resident office performance.

However, this data was not utilized as a performance measurement tool until the reviews examining accomplishments for FY 1980. Since then, each manager has been held accountable for his office(s)'s assest removal program. This program is and will continue to be a major factor in evaluations of field office performance.

The justification states that during 1981, $161 million in cash and property was seized by DEA and $225 million in seizures are anticipated in 1982. What portion of this amount is the value of illicit drugs?

None of the reported seized case and property was illicit drugs. All seizures were of drug-related assets, i.e., cash and property employed in illicit drug traficking operations or revenues derived from such operations.

Questions Submitted by Senator Harrison Schmitt

Drug Enforcement Administration

The FY 1983 budget request for the Drug Enforcement Administration (DEA) included program reductions of about $2 million. Will any domestic offices be closed during FY 1983 to meet the budget reductions? Which offices? How many personnel will be affected by these closings? How many in New Mexico? What criteria will, or did the DEA use to determine which offices are to be closed?

No offices will be closed to meet the budget reduction in 1983. However, as currently planned, DEA is reassigning agents to meet priority enforcement needs. As a result of this action the offices in Douglas, Arizona; Tulsa, Oklahoma; and Springfield, Illinois are planned to be closed in 1982. DEA will still maintain offices in all states.

The criteria for closing an office encompasses numerous factors including, but not limited to the following:

1. Drug abuse concentration in area.
2. Status of the area as a major drug transit point.
3. Productivity of office (arrest and convictions).
4. Level of potential drug investigations.
5. Level of drug-related violent crime.
6. Capability of state and local police authorities.
7. Proximity of other DEA offices to the area.

In an effort to assist South Florida solve the problems caused by massive immigration, illegal drugs, and crime, Vice President Bush anounced that 20 DEA agents would be assigned to Miami. Presumably these agents will be deployed from other offices because DEA's FY 1983 budget request maintains personnel strength at current levels. From which DEA offices will the agents be deployed? From any in New Mexico? Will the agents be on temporary or permanent assignment to Miami? If temporary, how long does DEA anticipate the agents will be assigned to Miami? Is DEA also sending equipment to South Florida? If DEA is sending equipment, please describe the equipment and indicate from which offices the equipment will be deployed.

The DEA has increased the special agent manpower ceiling for the Miami District Office by twenty new positions. This will bring the new level to one hundred and fifteen field agents in that office. The twenty agents to be assigned will come from various domestic DEA offices where ceiling reductions are being undertaken. There will be three agents moved from New Mexico.

In addition to the field agents of the Miami District Office there are about sixty special agents assigned to the DEA/Customs/Florida Task Force in Florida. These sixty agents are scheduled to remain on temporary assignment for sixty to one hundred and eighty days as participants in this task force. During this period of time it is expected that the twenty new positions will be filled and their transfers to Miami undertaken.

DEA has sent and is sending equipment to Florida to augment the investigative resources in place in Miami. Among the items sent

to support the task force are: official government vehicles; cameras, binoculars; radio transceivers; night viewing devices; tape recorders; office equipment; aircraft; protective vests and other agent's individual equipment such as sidearms, ammunition, etc. The logistical resources have been assembled from existing offices throughout the United States.

In 1981, the Congress amended the Posse Comitatus Statute (18 U.S.C. § 1385) to authorize the military to provide intelligence, equipment, training, and technical assistance to law enforcement agencies as long as military preparedness is not affected. Reimbursement is a condition of this assistance. What amount is included in DEA's budget request for reimbursing the Department of Defense for any assistance provided during FY 1983?

DEA has no funding in the 1983 budget to reimburse the Department of Defense.

Questions Submitted by Senator Ernest F. Hollings

Workyear Reduction

The 1983 budget provides for a reduction of 100 workyears amounting to $2,500,000. Page 57 of the justification says that the 100 workyear reduction will "Provide for the ongoing level of operations." The various program measures in the justifications seem to bear that out as they are all holding steady or even improving. Are the workload measures reliable in view of the 100 workyear reduction?

Yes. The workload measures were not affected by the program reduction to any degree.

The reduction of 100 workyears and $2,500,000 is being proposed to support the President's economic recovery program. The workyear decrease will be allocated proportionally to the workyears in the programs to minimize the impact on the nation's drug enforcement effort and will not impact on agent staffing. It is anticipated that the 1983 requested workyear level will enable DEA to provide for the ongoing level of operations.

How many positions and workyears did DEA originally request, and how many did the Department approve in the request to OMB?

In the 1983 budget, DEA originally requested:

Positions	Workyears
3,983	3,975

The Department approved the following request to OMB:

Positions	Workyears
3,953	3,919

How many agents (sworn officers) does DEA have in the total force of 3,953 permanent positions?

DEA has 1,872 agents in the 3,953 total positions.

How many agents does DEA currently have on-board?

As of February 28, 1982 DEA had 1,853 agents on-board within the 1,872 authorized agent positions.

Where are they now deployed by location?

Current agent staffing deployment is as follows:

City and State	Agents On-board
New York, NY	177
Buffalo, NY	6
Rochester, NY	1
Albany, NY	2
Hartford, CT	13
Bridgeport, CT	2
Long Island, NY	6
Newark, NJ	20
Atlantic City, NJ	5
Boston, MA	34
Portland, ME	3
Concord, NH	1
Burlington, VT	3
Providence, RI	2
Springfield, MO	2
Philadelphia, PA	26
Wilmington, DE	2
Pittsburgh, PA	9
Miami, FL	98
Jacksonville, FL	7
W Palm Beach, FL	8
Tampa, FL	6
Ft. Lauderdale, FL	13
Ft. Myers, FL	3
Panama City, FL	4
Key West, FL	2
San Juan, Puerto Rico	16
Atlanta, GA	23
Savahana, GA	3
Charleston, SC	3
Columbia, SC	5
Nashville, TN	5
Memphis, TN	3
Wilmington, NC	5
Greensboro, NC	6
Washington, DC	21
Norfolk, VA	5
Richmond, VA	4
Baltimore, MD	31
New Orleans, LA	25
Baton Rouge, LA	4
Shreveport, LA	2
Little Rock, AK	5
Mobile, AL	6
Birmingham, AL	3
Jackson, MS	3
Chicago, IL	78

Hammond, IN	5
Indianapolis, IN	9
Detroit, MI	51
Grand Rapids, MI	3
Cleveland, OH	7
Cincinnati, OH	4
Charleston, WV	1
St. Louis, MO	15
Springfield, IL	2
Louisville, KY	2
Minneapolis, MN	2
Milwaukee, WI	6
Fargo, ND	2
Kansas City, MO	9
Omaha, NB	2
Wichita, KS	2
Des Moines, IA	2
Sioux Falls, SD	2
Dallas, Tx	36
Oklahoma, OK	3
Tulsa, OK	1
Fort Worth, TX	5
San Antonio, TX	21
Austin, TX	12
Del Rio, TX	5
Eagle Pass, TX	3
Houston, TX	23
Corpus Christ,TX	10
Galveston, TX	5
Mc Allen, TX	22
Laredo, TX	8
Brownsville, TX	8
Tucson, AZ	17
Douglas, AZ	3
Nogales, AZ	4
Phoenix, AZ	13
San Luis, AZ	6
Denver, CO	22
Cheyenne, WY	2
Salt Lake City, UT	4
El Paso, TX	13
Lubbock, TX	1
Midland, TX	2
Alpine, TX	2
Albuquerque, NM	15
Las Cruces, NM	5
Los Angeles, CA	82
Honolulu, HI	11
Guam	2
Reno, NV	5
Las Vegas, NV	9
San Diego, CA	43
Calexico, CA	9
San Francisco, CA	36
Sacramento, CA	10
Frensno, CA	6
Seattle, WA	32
Spokane, WA	3
Portland,OR	8
Eugene, OR	4
Anchorage, AK	3

Blaine, WA	3
Great Falls, MT	2
Boise, ID	3
Total Domestic Offices	1,379
Federal/State Task Forces	119
EPIC	13
Air Wing	37
Subtotal	1,548
Headquarters Activities	147
Foreign	158
Total	1,853

Where will they be deployed after the reorganization?

This data is still in the planning stage. As soon as it is approved we will make it available.

What will be the impact of the workyear reduction on the number of agents?

The workyear reduction will not impact on the agent workyears or agent positions in 1983. The workyear reduction applies to non-agent positions only.

On page 56 a reduction of 107 workyears is shown, but on page 57 there is a display of the workyear reduction that amounts to 100. Please explain the differences in these numbers.

The 107 workyear reduction noted on page 56 represents the total change from 1982 and 1983, which takes into account net adjustments to base (-7) and program reductions (-100).

The adjustment to base changes were as follows:

- Annualization of 36 additional positions approved in 1982. Funding for only seventy-five percent of the year was included in 1982 (36@ .75 = 27 workyears). Nine workyears and $305,000 have been requested to provide for funding on an annual basis.

- Annualization of 1982 position and program reductions reflected in the March 1982 amendment. Where a decrease in positions occurred in the current year and it was for only a portion of the year, the budget notes a further reduction in workyears and dollars to annualize the cost of the reduction (-16 workyears and -$700,000).

How many personnel in permanent positons did DEA employ on September 30, 1981?

DEA's on-board full-time permanent staff totaled 3,910 on September 30, 1981.

New Relationship with FBI

How will the Foreign Cooperative Investigations be affected by the DEA/FBI merger?

There will be no organizational change in the DEA foreign program. DEA will continue to handle all drug enforcement and liaison matters overseas. Investigative leads, whether developed by the FBI or DEA, will be followed up by the DEA overseas.

Will FBI agents play a more noticeable role overseas?

No. The FBI and DEA agree that the U.S Government must speak with singular voice in drug enforcement matters with foreign police. DEA will continue its role as the United States drug investigative agency overseas.

How will the new organizational structure affect our working relationships with foreign governments assisting in the war against drugs?

Inasmuch as there is no change in the DEA foreign enforcement program, we expect minimal adverse impact on working relationships in the foreign cooperative program. In most industrialized countries, internal drug abuse problems make cooperation with DEA mutually beneficial. In many lesser developed countries, cooperation is either mutually beneficial or tied to other U.S. Government assistance programs.

Drug Intelligence

What accounts for increased volume in enforcement support and EPIC activity by the DEA intelligence office? Will the decrease in resources be able to sustain this increased effort?

Increases in enforcement support, as well as in other support-related categories, can be accounted for because the definition of this category was expanded to include a number of previously unreported support activities. This category was previously limited to the number of trafficker profiles and trafficking network analyses produced. This category has been expanded to include:

Intelligence reports: Number of studies, reference documents, recurring reports, special publications, situation and geographic survey reports produced.

Special Field Intelligence Program (SFIP): Number of SFIPs conducted by the program during the year.

Enforcement support activity: Number of biographical sheets, major organizational reports, narcotic trafficker profiles, trafficking network analyses and other in-depth research projects conducted by intelligence personnel (including those done for Special Action Office enforcement programs, CENTACs, Mobile Task Forces and routine investigations).

Information responses: Identification of possible enforcement targets and information of interest to DEA as well as other federal, state and local agencies.

El Paso Intelligence Center watch transactions: Direct, real-time responses to requests from participating federal, state, local and territorial agencies through searches of PATHFINDER manual and automated data bases.

These additional items account for the substantial increase in the workload production data for FY 1981 over previous years.

During FY 1981, several factors contributed to increased EPIC activity. DEA-initiated inquiries to EPIC increased by approximately 14.8 percent over FY 1980 totals. In addition to increased DEA activity, EPIC management reported the following:

U.S. Customs Service and DEA interagency coopertive efforts resulted in an increased use of EPIC services by Customs field personnel.

Other agencies inquiries and maritime programs at EPIC supporting Coast Guard enforcement activities, accounted for over 25 percent of EPIC Watch Transactions, reflecting increases over previous years.

U.S. Marshals Service inquiries escalated approximately 193 percent during FY 1981 over FY 1980 activity.

Federal Bureau of Investigation field divisions responded to EPIC access by posting significant increases in the number of inquiries forwarded to EPIC for processing.

Internal Revenue Service initiated a one year test study at EPIC, servicing a considerable number of field inquiries.

Between June 1980 and September 1981, ten new state and territorial police agencies signed agreements with EPIC, increasing the number of EPIC, state, local and territorial consumers to 47 at the end of the year.

Inquiries made of U.S. Immigration and Naturalization Service data bases at EPIC constituted approximately 19 percent of Watch activity during FY 1981.

The cumulative impact of these increases has combined to register increases in EPIC activity over previous years.

There will be minimal impact on the intelligence activity occasioned by the overall program reduction of 100 workyears.

Will the FBI take a more active participating role in assisting other federal, state and local agencies with organized criminal intelligence relating to drug offenses?

The implementation plan for concurrent jurisdiction reiterates that DEA will continue to be the principal federal drug enforcement agency responsible for drug intelligence analysis and the publication of appropriate strategic assessments. There will be a greater exchange of intelligence information between DEA and the FBI; but

DEA will remain the agency responsible for disseminating drug-related intelligence to other federal, state and local agencies.

Domestic Enforcement

Presumably, the federal targetting effort places the highest priority on high-level drug traffickers. Why then does DEA initiate more Class III cases than it does Class II cases?

Given the clandestine nature and national or international scope of the most significant trafficking organizations, each Class I or II case normally involves a considerable investment of effort at the Class III level before sufficient evidence is developed to justify upgrading to the higher case classification. It is probably true that DEA initiates more Class III cases than it does Class II cases. This is not indicative of DEA priorities but rather of the dynamic nature of case development and classification. Case initiation and development at the Class III level must be considered a critical element of the Class I and II targetting mechanism. DEA's investigative priorities are best measured by case culmination, not case initiation, in both Class I and II cases. For DEA-initiated investigations in 1981, 46.9 percent of all arrests were at the Class I case level and 60.9 percent were at the Class I and II levels, compared to 39.1 percent in Class III and IV cases combined. DEA continues to place the highest priority on Class I investigations which target the most significant trafficking organizations through the organizational heads, suppliers, financiers and assets upon which the organizations depend.

The former Administrator told us several times that major drug traffickers treated bail as lunch money. Has there been any improvement in getting at high enough amounts to impact on bail jumping?

There appears to be a growing awareness of the courts as to the amount of bail money available to drug traffickers through their illegal activities. More realistic bails are being set for high-level traffickers.

How many indicted drug traffickers jumped bail in FY 1980 and 1981, and what success has DEA had in apprehending them?

Approximately 325 fugitives jumped bail in 1980 and another 330 jumped bail in 1981. In addition to the bail jumpers, there are a large number of fugitives who have been indicted but never arrested. In most cases, these fugitives have fled the country or were not in the country at the time of indictment. In 1981, 561 of the total number of fugitives were apprehended or warrants for their arrest dismissed. Technically, the apprehension of fugitives who jump bail following conviction is the responsibility of the U.S. Marshals Service; however, DEA maintains a strong interest in apprehending those high-level violators who jump bail. In spite of the fact that many fugitives released on high-level bail may have fled the country, DEA has had some success in their apprehension. DEA has constantly attempted to have such fugitives extradited to the U.S.; however, this is extremely difficult because the whereabouts of the fugitive may be unknown or he is residing in a country which is uncooperative in arresting and extraditing the individual.

During the fall of 1981, DEA and the FBI entered into an agreement in which the FBI would assume responsibility for the apprehensive efforts directed at all DEA/Class I and II fugitives, who are U.S. citizens believed to be residing in the United States. DEA will continue to investigate those fugitives residing in foreign countries and will, whenever possible, extradite them to the U.S. in accordance with existing treaties.

Last year DEA agents were no longer able to take their cars home due to no money being available for fuel. Has that restriction been relaxed?

We did have some difficulty with fuel allocation and consequently we restricted the travel in connection with the training programs or conferences, but DEA did not restrict the travel with regard to our investigative activity.

Asset Seizures

In FY 1983 DEA projects $275,000,000 in assets seized, or almost three times the amount seized in 1980. In view of the reduction of 48 workyears budgeted for Domestic Enforcement, how reliable is the estimate for 1983?

The workyear reduction is not anticipated to impact on asset seizures because the reduction is to be applied to other than agent workyears.

We are constantly hearing that DEA has a huge inventory of seized boats, planes, and cars. How many of each of these items does DEA have now?

DEA has a decentralized system to maintain accountability for seized property. A survey of the Domestic Regional Offices reflects the following data:

Inventory of Seized Property

Boats	Airplanes	Cars
15	29	1,066

Cannot these seized assets provide DEA with suitable vehicles through the forfeiture process to obviate the need to purchase 277 motor vehicles in FY 1983?

Forfeited seized passenger motor vehicles supplement the replacement of surplused vehicles through purchase. Generally, only about 20 percent of seized vehicles are utlimately utilized as official vehicles. All seizures are not suitable for DEA use. Many are special purpose vehicles, i.e., trucks, campers, motor homes, motorcycles, etc, and many are not economical for DEA use. Further, as violators become more sophisticated and more aware of federal seizure authority, we find that fewer vehicles, which would otherwise be subject to seizure, are owned by the violators. Violators are leasing vehicles in many cases and making only minimum down payments in other cases. Innocent third parties, such as rental agencies and lien holders, are given custody of the vehicles in these instances.

What is the process for making seized assets available to state and local law enforcement agencies?

The provisions of 21 U.S.C. 881 allow DEA to seize all vehicles, vessels and aircraft used to facilitate drug violations. The conveyances valued at less than $10,000 are forfeited administratively by DEA, unless a claim and bond are filed to make the seizure judicial. Conveyances valued at more than $10,000 are forfeited judicially, and although some of the civil proceedings to complete such forfeitures take time, DEA ultimately places some such property in use.

Existing GSA statutes and regulations preclude the donation to state agencies of seized and forfeited property, which must be sold. However, where property is seized, forfeited, and put into official use and subsequently deemed not to be necessary, the property could be donated to state agencies.

In 1976, the Federal Property and Administrative Services Act of 1949 was amended to permit the United States to donate surplus property to state agencies engaged in promoting public safety, P.L. 94-519, October 17, 1976 (40 U.S.C. 484). The legislative history of this amendment makes clear that non-federal law enforcement agencies can be donees under this law, [1976] U.S. Code, Congressional and Administrative News 5450.

Questions Submitted by Senator Lawton Chiles

In your prepared statement, you characterized control of drug trafficking at its source as a "pillar of the U.S. drug strategy", and emphasized the need for eradication, crop substitution, income subsidies and enforcement action overseas.

What changes in the budgets of our federal agencies--those charged with drug enforcement and, more importantly, those charged with conduct of international relations--can you point to as evidence of this commitment to dealing with narcotics trafficking at its source?

How much foreign assistance is earmarked for these international drug enforcement programs in FY 1983, and how does this amount compare with the amount requested in FY 1982? In FY 1981?

DEA's role as lead agency working actively with counterpart agencies overseas has been highly effective and must be continued. This effort includes technical assistance in eradication, cooperative investigations and legislative proposals, the provision of training, and the exchange of intelligence. We are prepared to work diligently to achieve our program goals.

To effectively persuade foreign governments to act on drug control, the Federal Government must combine a convincing domestic program with a consistent diplomatic program. Advancement of a firm domestic marijuana control program is a needed demonstration of this commitment. We are actively involved with marijuana-source states to develop and implement domestic eradication programs.

DEA has requested $31,385,000 for Foreign Cooperative Investigations in FY 1983, compared to $28,706,000 in FY 1982 and $22,674,000 in FY 1981.

The Department of State foreign assistance drug control program is as follows:

	FY 1981	FY 1982	FY 1983
Enforcement assistance and interdiction.....	$17,452,000	$19,135,000	$18,000,000
Crop control/ eradication.....	9,294,000	8,500,000	10,900,000
Income replacement/ rural development..	2,460,000	3,045,000	5,250,000

Last year, a General Accounting Office report criticized DEA and the Justice Department for not placing enough emphasis on seizure and (ultimately) forfeiture of assets taken in connection with arrests for drug trafficking. Congress has also called for a greater emphasis to be placed on such proceedings, as an effective way to immobilize drug trafficking organizations.

What was the estimated value of assets seized by the DEA, in connection with drug cases in the most recent fiscal years for which figures are available?

How many forfeiture proceedings have been initiated in the past fiscal year? How many have been completed? How many are still pending?

FY 1979 data are not available, however, in FY 1980 and FY 1981 DEA asset seizures, which were available for forfeiture under those statutes enforced by the DEA, totaled $39.4 million and $64.7 million, respectively. From FY 1980 to FY 1981 DEA seizures increased $25.3 million which represents an increase of 64.6 percent.

In FY 1980 and FY 1981 DEA asset seizures, which were processed through to forfeiture under those statutes enforced by DEA, totaled $6.8 million and $12.9 million, respectively. The forfeitures in any one year may not be directly traceable to the seizures in that year, but in some cases are the result of finalization of the forfeiture process relating to seizures in the past year or two. The increase in DEA for feitures of $6.1 million represents a near doubling of forfeiture amounts from FY 1980 to FY 1981.

In FY 1980 and FY 1981, DEA was involved with many other agencies in cooperative investigations which resulted in seizures, which were available for forfeiture under the statutes enforced by those agencies or governments. These seizures in FY 1980 and FY 1981 totaled $54.8 million and $96.3 million, respectively. DEA records do not reflect the status of the forfeiture proceedings in these other agencies.

During this period DEA deposits to the United States Treasury (from all sources) increased over 2.5 fold. It is noteworthy that while proceeds from sales increased 74 percent from FY 1980 to FY 1981 their relative proportion of the total decreased by 6.8 percent. During the same time period the amount of seized monies nearly tripled (from $.84 million to $2.68 million).

The proportion of 21 U.S.C. 881A, 881J and Continuing Criminal Enterprise (CCE) seizures remained relatively stable from FY 1980 to FY 1981. The proportion of Racketeer Influenced and Corrupt Organization (RICO) seizures nearly doubled; however, that still represents a very small percentage of DEA seizure activity (1.3 percent in FY 1980 and 2.2 percent in FY 1981).

Unlike seizures, the relative proportion of DEA forfeitures changed substantially from FY 1980 to FY 1981. The largest shift occurred in Section 881 forfeitures, which decreased from 81.6 percent of all DEA forfeitures in FY 1980 to 49.3 percent in FY 1981. Forfeitures for CCE increased substantially during this time period—from two percent of all DEA forfeitures in FY 1980 to 17 percent in FY 1981. RICO forfeitures nearly doubled—from 7.7 percent in FY 1980 to 13.7 percent in FY 1981. Based on these figures it appears that DEA asset removal activities have emphasized use of the criminal forfeiture provisions of the CCE and RICO statutes. This trend is in keeping with the recommendations in the GAO report, "Asset Forfeiture—A Seldom Used Tool in Combatting Drug Trafficking."

During FY 1981, DEA instituted 1,314 vehicle seizures, 22 aircraft seizures, 12 vessel seizures, and 824 currency or other asset seizures. Insofar as forfeiture proceedings are concerned, since they are handled both administratively and judicially, DEA does not maintain any statistics which would reveal how many cases are pending at any given time, or how many cases are completed in any given time period. DEA does of course maintain the status of each individual case.

United States foreign aid funds can now be used for programs to eradicate drug crops overseas. What steps is DEA taking to implement this new law and what level of funding do you think is proper for these drug eradication programs?

DEA continues to identify through intelligence and enforcement activities areas of illicit cultivation for potential eradication efforts, and to assess host country attitudes and urge officials toward such efforts. With the Department of State, DEA provides technical assistance to host country officials in developing plans to launch optimally effective eradication campaigns. DEA places high priority on eradication in source countries. However, the level of funding for these operations is determined and administered by the Department of State.

FEDERAL PRISON SYSTEM

STATEMENT OF NORMAN A. CARLSON, DIRECTOR

ACCOMPANIED BY:

WADE B. HOUK, ASSISTANT DIRECTOR, DIVISION OF PLANNING AND DEVELOPMENT
GERALD M. FARKAS, ASSOCIATE COMMISSIONER, FEDERAL PRISON INDUSTRIES, INC.
ALAN F. BREED, DIRECTOR, NATIONAL INSTITUTE OF CORRECTIONS
LUMAN N. RENSCH, JR., CHIEF, OFFICE OF BUDGET DEVELOPMENT
DAVID J. SWEDA, OFFICE OF BUDGET DEVELOPMENT
JIM POWELL, CHIEF, OFFICE OF FINANCIAL MANAGEMENT
CHARLES R. NEILL, CONTROLLER
MICHAEL J. ROPER, DEPUTY DIRECTOR, BUDGET STAFF

BUDGET REQUEST

Senator WEICKER. The next request is that of the Federal Prison System. The amount requested is $394,254,000 and 9,022 positions, an increase of 45 positions and a decrease of $2,250,000 from the 1983 base.

Appearing on behalf of this request is Norman A. Carlson, the Director of the Federal Prison System, and he will introduce those accompanying him. I will be delighted to go ahead and take your statement in its entirety in the record at this time and ask that you summarize it.

If I might before I forget, I left the hearing room a few minutes ago to respond to a call from Senator Mattingly in which he asked for an explanation as to the facility in Atlanta. The position you have taken before this committee in the past is that it is going to be turned over to the State in 1984. I gather you changed your position on that. He wants an explanation of it since he has also been in touch with the Governor to the extent the State is counting on taking over this facility. I don't expect you to go out of order. You go ahead with your statement. We would appreciate during the course of your response to the committee that you answer this question.

BUREAU OF PRISONS BUDGET

Mr. CARLSON. Thank you. We are requesting this year a budget which essentially maintains programs and operations of the Bureau of Prisons at the current level. The population of the Bureau of Prisons has increased to 27,900, which represents a net increase of 3,500 inmates since we appeared before you 1 year ago. The inmate population exceeds current institution physical capacity by over 18 percent.

Several factors have contributed to the increase in population. First, and foremost, are new commitments from the courts. That number has gone up by 1,200 over the past year alone. Compounding that problem

is the fact that the courts are imposing longer sentences, particularly on bank robbery and narcotics convictions.

At the present time, we also have in custody 1,600 Cuban refugees whom we are holding at the request of the Immigration and Naturalization Service, which further exacerbates the problem of overcrowding.

Mr. Chairman, it is difficult to predict what the population will do. My crystal ball is not clear in terms of predicting what the priorities will be in law enforcement or courts' attitude on sentencing. I think, on balance, there is no question that the Federal prison population will continue to increase. First, the FBI is giving major attention to violent crimes, and DEA, as Mr. Mullen has testified, is increasing its efforts in the area of major narcotics offenders. Those two categories constitute over 50 percent of inmates in Federal custody. These cases turn over very slowly due to increasing lengths of sentences.

ATLANTA PENITENTIARY

Mr. Chairman, I do want to comment about the Atlanta situation. As Senator Mattingly indicated, we are requesting, if the committee concurs, that the institution be maintained as part of the Bureau of Prisons and that it not be closed as we previously requested.

The fiscal year 1980 authorization act for the Department of Justice indicated that the institution should be closed by September 1, 1984. At that time, I concurred with that decision because the inmate population was declining rather substantially. The population had gone down to 24,000 inmates. We felt the institution could be closed without any adverse consequences to the system. That situation, of course, has reversed itself, and the population has been going up steadily for the past year. It has risen by over 3,500 inmates in the past 12 months alone.

As I look to the future, I think it is going to continue to grow, perhaps even more rapidly than it has in the past. The institution in Atlanta is now filled. We have 1,400 Cuban detainees there, plus 250 U.S. citizens serving felony sentences. Even if the Cubans were released tomorrow, which is very unlikely, we would definitely need the institution in order to receive inmates from other overcrowded facilities in our system.

We plan to renovate the institution in much the same manner as the institution at Leavenworth, Kans. I think, in view of changing circumstances and changing priorities in the law enforcement community, that the institution at Atlanta should be maintained as part of the Federal Prison System.

SALARIES AND EXPENSES

Mr. Chairman, in the area of salaries and expenses, we are requesting an increase of 57 positions. These positions are necessary because of the phaseout of the Public Health Service Hospital System. These are Public Health Service commissioned officer dentists and doctors who have been serving with the Bureau of Prisons. These positions do not represent a net increase in Federal employment. Rather, they represent a transfer of positions from the U.S. Public Health Service to the Bureau

of Prisons so we can hire civil service doctors over a 3-year timeframe, and thereby replace the existing U.S. Public Health Service doctors.

NATIONAL INSTITUTE OF CORRECTIONS

Let me conclude with a comment about the National Institute of Corrections, which is part of the Bureau of Prisons for administrative purposes. We are requesting $11 million, which represents a minor decrease over last year's appropriation. With the demise of LEAA, the NIC represents the only Federal support for State and local law enforcement and correctional activities.

The staff of NIC has been a very effective tool, and the feedback I receive from my colleagues in State and local government is that the National Institute of Corrections performs a very valuable function in assisting State and local law enforcement people.

I will be happy to respond to any questions that you may have.

INCREASE IN PRISON POPULATION

Senator WEICKER. In less than a year, the prison population has gone up 14 percent. I thought you said 18 percent. My staff says 14 percent.

Mr. CARLSON. Eighteen percent over capacity and 14 percent over last year.

Senator WEICKER. The 14 percent going from 24,400 to 27,900. I understand the budget is based on a 1983 population of 27,000. How realistic do you believe this is when halfway through 1982 we are already over 27,000?

Mr. CARLSON. Mr. Chairman, it is obviously unrealistic. We prepared those numbers a number of months ago before the population had gone up that rapidly.

At the present time, we are 900 over what we estimated for 1983. It is clear to me the estimates we submitted are low. We couldn't predict what would happen.

Senator WEICKER. Don't you think you ought to adjust them?

Mr. CARLSON. We will during the year.

Senator WEICKER. I think they ought to be adjusted now. I am not going to sit here and chair a committee where we know what the facts are and not plan accordingly. This isn't some great surprise. This isn't like all of a sudden Cuba is unloading its refugees which obviously you couldn't foresee. We are foreseeing this right now. It is happening.

Mr. CARLSON. We will prepare and submit to the committee——

Senator WEICKER. Let me say this right now, if I might, Mr. Neill, and you can transmit this to Mr. Rooney. I am all for these law enforcement—law and order administrations; I think they are great. I have no objection to it. I have a slightly different definition as to what law and order means mainly. But, be that as it may, we can't have the reputation of being law and order and at the same time being the world's greatest budget cutters. Let's get it on the line. We can't have it both ways.

I have seen this in other budgets, and this is just a continuation of what Mr. Carlson is putting forth before me. If, indeed, there is going

to be a serious effort directed at the problems of crime in our society, then I think it should be appropriately reflected in the budget. That is one of the priorities.

God knows defense is a priority, and we see that reflected in the budget. I am not going to go ahead and feel we can get law and order cheap around here. That is a terribly misleading thing. This just proves what I am saying. I am just not going to let anybody believe that there isn't going to be a big problem during fiscal year 1983. We are over by 900 the figure on which the budget was based. I assume that we are really going to get tough and incarcerate people; that seems to be the historical trend over the last several years, and I certainly can't believe this administration isn't going to get tougher and that these figures are going to continue to soar. What is this man supposed to do?

Mr. NEILL. Some portion of that 27,900 is what was unexpectedly transferred from HHS for the Cubans and Haitians and we will get funds for that part.

HEALTH AND HUMAN SERVICES AND JUSTICE RESPONSIBILITIES

Senator WEICKER. I will lay you odds if I turn to HHS, I will find out they have been cut. I don't have their budget here, but I just have a feeling that is going to be the case.

Mr. NEILL. For 1983, that budget amount has been transferred to the Department under INS. INS will reimburse them.

Senator WEICKER. At least do me the courtesy, if we can, maybe we can't totally predict what this increase is going to be throughout the remainder of fiscal year 1983, but we certainly have figures in hand as to what it is right now, and let's at least deal with that. I suspect that will be low, but at least we won't be totally out of place by the time fiscal year 1983 is over.

I am not a believer in the supplemental process. That is for emergencies. That is when the Cubans or Haitians come to the United States or from Poland under martial law. These are things which we have no control over. But we do have control over this. I am not asking you to take this on your shoulders. You obviously have to operate within the guidelines of the administration, but I am the head of a subcommittee that handles appropriations, and I care to follow a certain fiscal practice here which to me means coming to grips with reality. This isn't speculation or extrapolating or anything else. OK?

NEW CONSTRUCTION PROJECTS

I understand that the Bureau is resorting to double-bunking prisoners due to the increase in inmate population. We provided planning funds for a new prison in Phoenix last year, a project which was once funded and then the money was used to offset pay costs in 1981.

With this increase in population, are we going to see a request for construction funds, or are we going to have to wait until things get even more critical?

Mr. CARLSON. Mr. Chairman, we are moving ahead with plans for the facility in Phoenix. The site is about ready to be acquired. The environ-

mental protection statement has been formalized and will shortly be circulated for comment.

With respect to the actual construction funds, they are not included in the Bureau of Prisons' 1983 request. However, I understand the INS budget request reflects a transfer of funds from the Department of Health and Human Services which will provide resources to begin construction very shortly on that facility.

INMATE PROGRAMS

Senator WEICKER. The budget states you are reducing expenses in order to maintain employment at 1981 levels. Inmate programs are developed to prevent idle time and promote the general well-being of the prisoner population. You are showing manpower and work-year decreases particularly in leisure activities. Since you are reducing staff levels and work-years for these programs, what kind of alternative planning is taking place to cope with inmate idleness?

Mr. CARLSON. Mr. Chairman, we are expanding a number of other programs, particularly Federal prison industries, which at the present time occupies nearly 30 percent of the inmate population on a full-time, 8-hour basis.

In addition, we plan to utilize volunteer and contract people as much as we can to augment the areas that are being reduced.

INSTITUTIONAL SECURITY

Senator WEICKER. Even though there was an increase in prison population over the past year, you are not requesting an increase in institutional security programs. What effect will this have on maintaining the safety of staff, inmates and the public at large?

Mr. CARLSON. I think with the resources we have at our disposal, we can continue to maintain an adequate level of protection for the community.

Senator WEICKER. At what point are you going to change your mind? Again, you have the situation here where the prison population is soaring and the funds are not anywhere matching that. When do you start getting nervous about that situation?

Mr. CARLSON. Mr. Chairman, our population was over 30,000 some 3 years ago, which was considerably higher than it is today. As we approach that figure, I obviously become more concerned.

At the present time, I believe we can maintain the security of those institutions. We have done it before and, I think, very effectively.

Senator WEICKER. Senator Hollings' staff has a question.

Mr. KANE. Mr. Carlson, you mentioned the 30,000 figure a few years ago. At that time, you had other institutions like McNeil Island, which is in the State of Washington. You have phased out Atlanta, a 900 capacity.

How does your capacity now compare with the capacity when you had the 30,000 inmates?

Mr. CARLSON. I will supply the exact number for the record. However, Mr. Chairman, I think the number of bed spaces is about the same.

In terms of net beds available, the numbers are pretty much the same. I will supply that for the record.

[The information follows:]

INMATE CAPACITY

Inmate population reached an all-time high of 30,500 in August 1977. Institution physical capacity at the time was 22,910. Institution physical capacity on March 16, 1982 was 23,892.

FOOD PROGRAM

Senator WEICKER. Since 1980, the number of daily meals served has gone from 69,030 to 81,000 in 1982 and 1983, and the number of pounds of food served per person has gone from 5.75 per day to 5.25 estimated in 1983.

Please explain the reason for the reduction in food per person.

Mr. CARLSON. This is by no means a reduction in the food program. We have been trying to reduce the bulk and starches served to inmates for many years. This is based on recommendations made by our dietitians and medical staff to reduce bulkage but preserve the level of nutrition.

I can assure you there have been no cutbacks in the nutritional aspects of the program. We are still feeding well within the Department of Agriculture's nutritional and poundage guidelines.

CUBANS AND HAITIANS

Senator WEICKER. In all, the prison system is responsible for the housing of some 2,200 Cuban and Haitian detainees. Virtually all funds recently transferred from HHS to INS for the reception, care, and housing of these aliens go to either Bureau of Prisons or back to HHS in reimbursements. Why didn't the Department place responsibility for this function in the prison system rather than INS?

Mr. CARLSON. Mr. Chairman, the majority of the funds will be used for the relocation and care of the Cubans and Haitians outside Bureau of Prisons institutions. However, we will be reimbursed, as Mr. Neill indicated, for those INS detainees who are housed in the Bureau of Prisons. Part of those funds will be transferred to us for that purpose.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. The remainder of the questions we will submit to you for the record and for response to the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

Community Treatment Centers

According to the budget, your objective is to place 80 percent of all inmates eligible for release in a Community Treatment Center (CTC) for 100 days. Yet, you're not going to make this goal. Page 37 indicates you will only place 70 percent for an average stay of 90 days. Why?

To fully meet our goal of placing 80 percent of all eligible inmates in a CTC for an average stay of 100 days would require an estimated $28 million. However, in order to keep within the Administration's goal of reducing federal spending, we requested only $21 million. This amount will allow placement of 70 percent of all inmates eligible for release in a CTC for 90 days.

You closed your federal CTCs because you believed that contract CTCs could pick up the slack. Why has there been a decline in CTC placements from 1980 to 1981, 1982, and 1983?

The decline is principally due to the fact of reduced funding which is consistent with the Administration's goal of reducing federal spending.

How close are you to implementing your goal of providing CTC programs to 80 percent of eligible releases?

During 1982, we estimate we will achieve placing 65 percent of those eligible for release through CTCs. This will increase to 70 percent in 1983.

What was the effect of reducing the amount available for community treatment centers in 1982? How many inmates were placed in CTCs and for what period of time compared with 1980 and 1981? Also, how did this compare to your 1982 objectives as stated in the March budget?

The effect of reducing the amount available for CTCs in 1982, was to decrease the number of inmates placed in CTCs as well as the length of stay.

The current budget for 1982 will finance an average daily population of 1,550 for an average length of stay of 80 days. This compares to 1,894 and 106 days in 1981, 2,215 and 95 days in 1980.

Our objectives for 1982 originally were to place 80 percent of all eligible inmates for an average stay of 110 days in centers. That would have meant an average daily population of about 2,560. Our objective for 1982, as stated in the March budget, did not change. However, our September budget changed the average length of stay to 45 days and provided for an average daily population of 1,160. Congressional action on the 1982 request restored funds to provide for an average length of stay of 80 days for 65 percent of those eligible. This allows for an average daily population of 1,550.

Use of State and Local Facilities

With regard to federal inmates housed in state and local institutions, the Bureau is responsible for ensuring that these facilities meet Bureau standards. What are the Bureau's standards and are you able to enforce compliance?

The Bureau establishes a Statement of Work which sets forth the requirements or standards for local detention facilities and for long-term boarding in state and private facilities for juveniles and adults.

Our Community Programs Officers monitor these facilities regularly using a monitoring guide based on the Statement of Work. In state correctional facilities, we cannot force compliance. If a problem develops and it cannot be worked out, our only alternative is to remove federal inmates from the facility.

State or District of Columbia Prisoners in the Federal Systems

How many prisoners in the federal system are state or District of Columbia prisoners?

As of March 5, 1982, there were 945 state prisoners in the Federal Prison System (FPS). Following is a listing by state:

Alaska	171	Montana	3
Alabama	112	North Carolina	3
Arkansas	7	North Dakota	2
Arizona	9	Nebraska	1
California	59	New Hampshire	10
Colorado	2	New Jersey	15
Connecticut	11	New Mexico	76
Delaware	34	Nevada	3
Florida	40	New York	12
Georgia	12	Ohio	7
Hawaii	16	Oklahoma	18
Iowa	23	Oregon	6
Idaho	3	Pennsylvania	6
Illinois	3	Rhode Island	7
Indiana	1	South Dakota	1
Kentucky	1	Texas	74
Massachusetts	55	Utah	14
Maryland	47	Virginia	2
Maine	13	Vermont	27
Michigan	13	Washington	11
Minnesota	6	Wisconsin	2
Mississippi	1	Wyoming	6
		Total	945

In addition to state prisoners, there are 1,316 from the District of Columbia.

How much income do we get from this activity and where do you account for it in the budget?

During FY 1981, we were reimbursed $5.6 million by states for housing state prisoners in the FPS. These funds are deposited to our account with Treasury and are used to offset the costs of housing the state prisoners. Reimbursements received, and reimbursable obligations and expenditures are reflected in a special schedule in the Budget Appendix.

The District of Columbia paid the Federal Government $10.4 million for housing their prisoners in our system. However, these funds are deposited to U.S. Treasury Miscellaneous Receipt Account and are not available to the Bureau as income.

Medical Services

You state on page 12 that all inmates receive a complete physical within 14 days of admission. In that regard, why is there such a disparity in the statistics in the number of complete physicals on page 13? 1981 shows a significant decline from 1980.

The decline in physicals from 1980 to 1981 is primarily attributable to three reasons:

1. Inmate physicals declined by 8,802 because of a policy change no longer requiring inmates to take an exit physical prior to release.

2. Pre-employment physicals and other employee physicals declined by 1,300.

3. Actual physicals reported in 1980 were overstated by 5,311. The amount reported was based on an estimate rather than an actual count.

On page one of the "Salaries and Expenses" section, your budget proposal states that a phase-out of the U.S. Public Health Service Commissioned Officers Corps (doctors) will create the need to convert 57 positions to civil service doctor positions. What added costs are being incurred by phasing out the Public Health Service Commissioned Officer Corps (doctors) and converting them to civil service doctors? What is the benefit of making the conversion?

The medical services provided to the Federal Prison System through the Public Health Service are predominantly for dentists and physicians. However, the phase-out will also affect approximately 28 percent of medical personnel in other health care professions, i.e., pharmacists, nurses, physical therapists.

There will be no additional costs. These are transfers of positions only from the Department of Health and Human Services. We cannot identify any benefits that will accrue from the conversion.

Full-Field Investigations

You show $528,000 as an uncontrollable increase for full-field investigations. Are you planning to do 1,760 full-field investigations during FY 1983?

No. The $1,828,000 requested for 1983 (1982 base of $1,300,000 plus uncontrollable increase of $528,000) will finance 1,354 full-field investigations. The estimate contained in the Congressional budget submission was based on guidance which limited the cost per investigation per employee to $1,300. The current actual per employee cost for a full-field investigation is $1,350.

Federal Prison Industries

The vocational training program is requesting $3 million to provide "new and innovative programs" for prisoner training and employment. What are these new and innovative programs?

Typical of the programs approved are the following:

1. An electronic drafting program at the Federal Correctional Institution (FCI) Danbury, Connecticut using the Colonel School of Design as the training agency.

2. A graphic arts program at FCI Ray Brook, New York.

3. A mechanical drafting program at FCI Oxford, Wisconsin using Mid-State Technical School as the training agency.

4. A computer science program at FCI Sandstone, Minnesota using Honeywell as the training agency.

5. A petroleum technology program at the Federal Prison Camp (FPC) Big Spring, Texas using Howard College as the training agency.

What form will the prisoner selection process take?

Selection criteria will be developed for each program. However, it is our policy to establish criteria which opens up the training programs to as many people as possible. Most current programs, for example, use actual performance in the training as the selection process.

In advanced training programs such as the computer sciences, however, a high school completion or passing an aptitude test may be required. If an inmate fails to meet the selection requirements he/she can get help from the Education Department to qualify. Where training is provided by an outside educational institution, its accreditation may depend on enrollment standards which the Bureau must meet in its selection process.

How do you verify that the prisoner will receive more meaningful employment? What kind of follow-up programs will be instituted to verify the employment success of the individual inmates chosen?

Evaluation and follow-up analysis will be required for all funded training programs. These will be designed by appropriate Bureau research staff under the overall supervision and coordination of the Bureau Research Chief. Meetings have already been held among education, research and UNICOR staff to discuss the form of these evaluations and follow-ups and how they will be implemented.

Public Health Service Doctors

How many Public Health Service doctors currently serve the prison system?

Currently, there are 100 Commissioned Officers serving in the FPS of which 22 are physicians and 50 are dentists. In addition, there are nine pharmacists, seven registered nurses, three physical therapists, and nine in miscellaneous health care professions.

How will the conversion from Public Health Service physicians be accomplished and are you going to replace PHS positions on a one-for-one basis?

We have planned a phase-out which will maximize the effect of normal attrition, permit a more orderly transition to assure the quality of replacement staff, and allow PHS staff sufficient time to prepare their career moves. In addition, those who are serving three year obligations under the PHS scholarship program, will be able to complete their obligation to the Federal Government. Following are the position and workyear requirements for PHS Commissioned Officer personnel and civil servant medical personnel under this proposed phase-out:

PHS	1983	1984	1985	1986	1987	1988	1989
Positions	55	9*	8	5	5	3	0
Workyears	73	31	8	5	5	3	0
Civil Service							
Positions	57	103	104	107	107	109	112
Workyears	25	67	90	93	93	95	98

*The nine remaining PHS Commissioned Officer personnel, in 1984, are within five years of retirement and will remain in their current positions until retirement.

Assistance to State and Local Governments

Your budget submission is silent with respect to assistance provided to state and local governments to improve their correctional systems. What degree of emphasis do you give to this area? Would you elaborate on the Bureau's activities?

Activities of the National Institute of Corrections (NIC) include training, technical assistance, research and evaluation, policy and standards formulation and information services. These activities are directed towards the objective of improving state and local correctional services. Over 90 percent of the NIC budget impacts on these efforts. Whenever possible, the Bureau of Prisons also makes staff available to provide technical expertise to state and local correctional agencies.

Youth Correction Act Offenders

What do you estimate that the movement of Youth Correction Act (YCA) offenders to separate Bureau institutions will cost?

During FY 1982, the estimated cost to move YCA offenders is $400,000.

Has any consideration been given to appealing the decisions of the court in this matter, particularly since the House and Senate versions of the Criminal Code call for abolishing the YCA?

The court decisions requiring total separation of YCA offenders were reviewed over several years of extensive litigation in different parts of the country. Following the Court of Appeals decision (Tenth Circuit) in Watts v. Hadden, the Solicitor General decided no further appeal would be pursued. As the court said (in Watts, as well as in other cases), the Bureau of Prisons' disagreement with the treatment and separation provisions of the YCA's must be resolved through amendment of the Act by Congress, and not through the courts.

National Institute of Corrections

Because the budget includes a cut of $1.04 million for NIC grant programs for evaluations, policy and program development, and training and technical assistance to state and local authorities, how will these cuts effect state and local correctional program development? What will the impact be on state and local institutional management systems as they exist?

The impact of the reduction has its greatest effect on NIC's testing, developing and experimental work with correctional policy formulation and new program development. These activities are NIC's investment in future programs and do not have an immediate impact on state and local operations. Some efforts will continue, but at reduced levels.

National Corrections Academy

The National Corrections Academy was established last year. Can you tell us about the objectives of the Academy and how much is budgeted in FY 1983? How is it operated?

The operating budget for FY 1983 for the Academy is $2,956,213. The objectives of the Academy are:

1. Improve the general knowledge, skills, and practices of correctional administrators and managers and thereby advance the operation of their agencies and programs.

2. Improve the knowledge and skills of correctional staff trainers to enable them to upgrade their agency staff training programs.

3. Develop basic and specialty curriculums for use by correctional agencies, and correspondence training courses for use by individual line officers.

4. Facilitate correctional agencies' abilities to implement management and personnel policies that comply with national standards and affirmative action goals.

5. Promote constructive organizational change and full utilization of resources to maximize correctional agencies' ability to operate in a fair, safe, efficient, humane and constitutional manner.

6. Serve as a catalyst for interaction between correctional agencies, other components of the criminal justice system, and concerned public and private organizations.

The day-to-day operation of the National Corrections Academy is under the direction of the NIC. Currently, training is provided at the Academy by four staff assigned there as well as through a variety of contractual arrangements.

Questions Submitted by Senator Ernest F. Hollings

Administration Policy

The Attorney General has steadfastly proclaimed his attack at violent crime. Yet, as we review this budget, we find very little in the workload estimates of the various units of the Department confirming an increase in criminal prosecutions or other measures of an intensified effort. Last year this committee took note of the shift in prosecutorial priorities and asked the Attorney General to report to the committee his projections for prison population based on new prosecutorial guidelines.

Has such a report been prepared, and if it has, what does it indicate about future prison populations?

The report on prison population projections was prepared and forwarded to subcommittee staff, along with other requested reports, on February 22, 1982. As stated in the report, the Bureau of Prisons regularly monitors Federal Criminal Justice System activity and compiles pertinent statistical data. Prosecution, court, and correctional activities are reviewed. Our interpretation of these activities indicates a continuing increase in the inmate population.

In addition, the Bureau of Prisons predicts future inmate populations using several models. We have not found these predictions particularly reliable, as the science of inmate population prediction is not well developed. Nonetheless, based on these models we estimate inmate populations for the coming years in the following range:

	Low	High	Average
1983	26,573	32,732	29,653
1984	26,651	33,001	29,826
1985	26,729	33,270	30,000

The above estimates are functions of trends established during the past year as well as the previous administration.

The most recent report of the number of federal prisoners totals 27,834 or 16.5 percent over the rated capacity of the federal institutions. There are no new buildings requested. The additional capacity now under construction amounts to roughly 600. How do you plan to take care of the remainder of the 4,000 inmates that you are now over capacity?

In addition to the capacity now under construction, we are considering the construction of a 400 bed FCI in Phoenix, Arizona. We are screening federal surplus property to determine if suitable sites are available for Bureau of Prisons' needs. We are also examining our needs for additional facilities. In addition, we monitor closely Contract Community Treatment Center programs to ensure maximum usage of this alternative.

In the meantime, we will have to continue double-bunking some of the inmate population.

Phoenix Facility

Last year the Congress provided $1,920,000 for the design and site acquisition for a federal correctional institution at Phoenix, Arizona. There are no funds for construction of this facility in the 1983 request, but the Attorney General indicated last week that he supports the construction of this facility.

What is the present estimate of the amount required to construct the Phoenix facility?

The total project cost for the Phoenix FCI would be $23,920,000, including the $1,920,000 already appropriated for planning and site acquisition. We are in the process of developing an amendment to provide funding for the Phoenix FCI. The resources will be available within the total FY 1983 budget request currently pending before the Congress.

How much can be effectively used in FY 1983?

We can effectively use $19 million in FY 1983. The remaining $3 million will be required in FY 1984.

Atlanta

On February 4, 1982, the Attorney General notified the subcommittee that the previous plans to close the Atlanta Penitentiary should be cancelled. Over the last few years, Atlanta has been phased down from a maximum-security facility to a low-security facility institution.

On what basis is Atlanta now being operated?

Following the exodus from Cuba in 1980, it became necessary to house a large number of Cuban detainees with criminal backgrounds at various correctional institutions in the Federal Prison System. In order to reduce the management problems and costs attendant to housing this population, we decided to locate the majority of the Cuban population at Atlanta. Currently, the Atlanta penitentiary is housing approximately 1,400 out of a total of 1,600 Cuban detainees. Atlanta has been designated an administrative facility housing offenders with security levels ranging from one through six.

As you know, we began the phase down of the Atlanta Penitentiary in FY 1981, reducing our budget by 142 positions and $2,482,000. As a result, programs at the facility have been held to a minimum and additional costs at the Atlanta penitentiary are currently being absorbed by reducing several other programs including Contract Community Treatment Centers.

What are the present plans for the continued use of the Atlanta Penitentiary?

We hope to renovate the Atlanta facility to a modern, up-to-date federal facility. Our renovation strategy will bring the Atlanta Penitentiary into compliance with existing standards; generally upgrade the condition of the physical plant; renovate the housing units, reducing its physical capacity to 872; and include the construction of a satellite camp with a capacity of 98. The estimated cost of renovation will be approximately $19 million excluding inflation, and would be completed in six years. As of this date, funding for the project has not been requested from the Congress.

The 1983 budget provides for 53 less workyears for the institution security program than the actual number used in FY 1981. How are you able to staff Atlanta under the reduced level?

As a result of the transfer of Section 501(c) functions of the Refugee Education Assistance Act of 1980 (P.L. 96-422) from the Department of Health and Human Services to the Department of Justice, we anticipate that our FY 1982 and 1983 workyears will be increased by 34 full-time permanent and 50 for the institution security program at Atlanta.

Please provide, by insititution, the distribution of the workyears for insititution security in FY 1981 and the planned amounts for FY 1982 and 1983.

Following is the distribution of workyears for institution security in FY 1981 and the planned amounts for FY 1982 and 1983, by institution:

Institution	1981	1982	1983
North Central Region			
Chicago	72.8	72.2	72.2
Leavenworth	188.0	186.0	187.0
Marion	167.7	164.8	165.8
Milan	95.6	97.7	97.7

Oxford	98.9	97.6	97.6
Sandstone	53.8	55.5	55.5
Springfield	205.3	204.6	205.6
Terre Haute	144.9	149.0	149.0
Northeast Region			
Alderson	95.7	89.9	89.8
Allenwood	22.4	24.0	24.0
Danbury	68.0	69.1	69.1
Lewisburg	167.9	162.9	163.9
Morgantown	65.0	56.7	56.7
New York	108.5	99.0	100.0
Otisville	79.9	96.1	96.1
Petersburg	101.3	96.7	97.6
Ray Brook	68.5	89.4	89.4
South Central Region			
Bastrop	89.5	87.9	87.9
Big Spring	29.2	20.6	20.6
El Reno	132.5	132.7	133.7
Fort Worth	76.5	75.4	75.4
La Tuna	91.7	85.5	86.5
Seagoville	36.8	34.9	34.9
Texarkana	81.0	79.3	79.3
Southeast Region			
Ashland	85.8	84.4	84.4
Atlanta	165.0	117.7	118.8
Butner	79.3	79.5	79.5
Eglin	24.6	23.0	23.0
Lexington	104.3	103.8	104.8
Memphis	92.0	92.0	92.0
Miami	73.9	77.9	77.9
Montgomery	18.0	18.0	18.0
Talladega	92.5	90.2	91.2
Tallahassee	87.5	83.9	83.9
Western Region			
Boron	16.7	18.1	18.1
Englewood	61.8	74.7	74.7
Florence	24.7	13.8	13.8
Lompoc	151.4	148.1	149.1
Pleasanton	55.8	53.5	53.5
Safford	17.5	17.6	17.6
San Diego	74.3	72.1	72.1
Terminal Island	96.3	96.4	97.4
Tucson	...	22.3	24.3
McNeil	19.2	...	...
Total	3,682.0	3,614.5	3,629.4

Food and Farm Services

According to the justifications, the pounds of food served per inmate per day is declining from 5.75 pounds in 1980 to 5.25 pounds in 1983. Does that 1/2-pound reduction per inmate indicate that we were feeding them too much in 1980?

During 1981, the Director appointed a task force to review the standard ration. A nutritional analysis of the standard ration by three registered dietitians assigned to the task force indicated a substantial excess of all nutrients. As a result, we decided to reduce the pounds of food served per inmate per day to 5.25 pounds in 1983. Basically, the decline reflects a reduction in the amount of starch in the inmates' diet. The planned standard ration is well within the Recommended Dietary Allowances of the Department of Agriculture's National Research Council.

Metropolitan Correctional Centers

Recently, the Bureau of Prisons announced that the former federal correctional institutions at Miami and Tucson will be designated Metropolitan Correctional Centers (MCCs). I believe that this is the first time that existing institutions were designated at MCCs, and would you explain why such a change in designation is to be made?

The Bureau of Prisons redesignated the Miami Federal Correctional Institution (FCI), and the Tucson Federal Detention Center as Metropolitan Correctional Centers to acknowledge the metropolitan areas served and more importantly, to accurately reflect their functional mission: the housing of federal detainees awaiting trial, sentencing or other judicial disposition. The Bureau added a detention unit to the Miami FCI in October 1979 in anticipation of a growing detainee population in that area. The lack of local detention capacity, heavy narcotics trafficking by illegal aliens and the need to house Haitian refugees have combined to change the population at Miami to one comprised almost exclusively of federal detainees rather than sentenced offenders. The population originally and currently planned for the facility at Tucson is primarily federal detention.

Use of Surplus Properties for Prisons

Is there any effort being made to use surplus government properties to meet your capacity situation?

Yes. As you are aware, the Federal Prison Camps at Big Spring, Texas and at Boron, California were formerly military federal surplus properties that we converted to correctional use, at considerable savings to the government. We continue to review excess federal property listings for the availability of sites appropriate for our use.

In the past, the Bureau has met strong resistance from the Department of Defense in freeing up surplus properties for the Bureau's use. Recently, I noticed that three properties in Lockport, New York; Chillicothe, Ohio; and Minden, Nevada, are being transferred to state and local governments for correctional use. Did the Bureau have a shot at any of those facilities for its own needs?

The Bureau of Prisons and all other federal agencies are given first opportunity to screen federal properties which have been determined as excess to a particular agency's needs. If the excess

property is not needed by any federal agency, it is declared surplus to federal needs and states and localities are then given an opportunity to apply for use of the property. As mentioned earlier, the Bureau continually reviews the federal excess property listings for suitable property. None of the above mentioned facilities were deemed appropriate for Bureau use.

Social Security and Veterans Administrations Payments to Prisoners

Last year the Bureau indicated that it intended to furnish the Social Security Administration with a listing of prisoners under your control.

Is the Social Security Administration now being regularly advised of the prisoners the Bureau is holding?

In October 1981 the Social Security Administration was provided with a listing of each inmate's social security number. We will continue to provide this listing each time the inmate master file is updated.

What action has the Social Security Administration taken to cut off disability insurance and educational benefits to prisoners as required by P.L. 96-473?

It is our understanding that the Social Security Administration uses the listing of prisoners under our control to cut off disability insurance and educational benefits to prisoners. However, it would be inappropriate for us to comment on specific actions the Social Security Administration takes to comply with P.L. 96-473 since we do not have all the facts.

Is there any legal or fiscal impediment to the Bureau obtaining from the Social Security and Veterans Administrations information regarding the amount of benefits paid to federal prisoners?

There is no legal impediment to the Bureau requesting the Social Security and Veterans Administrations to furnish the amount of benefits paid to federal prisoners. However, whether or not they could provide the information would depend on the laws and regulations governing their respective agency. Only recently, did we obtain legislation permitting us to provide them with similar information.

National Corrections Academy

Where is the money coming from to operate the National Corrections Academy?

Funds previously used for grants and contracts to conduct training throughout the United States have been consolidated for use at one central location, the National Corrections Academy.

How much is it going to cost us?

During FY 1982, the costs to operate the Academy will be approximately $2.6 million.

Who is operating the National Corrections Academy?

The day-to-day operation of the National Corrections Academy is under the direction of the National Institute of Corrections (NIC). Currently, training is provided at the Academy by four staff assigned there as well as through a variety of contractual arrangements.

SUBCOMMITTEE RECESS

Senator WEICKER. The subcommittee will recess until Friday morning at 9:30 when we will consider the requests of the U.S. Special Trade Representative, the Legal Services Corporation, and the Civil Rights Commission.

Thank you very much.

[Whereupon, at 11:08 a.m., Wednesday, March 10, the subcommittee was recessed to reconvene at 9:30 a.m., Friday, March 12.]

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

FRIDAY, MARCH 12, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room S-146, the Capitol, Hon. Lowell P. Weicker (chairman) presiding.

Present: Senators Weicker and Rudman.

U.S. TRADE REPRESENTATIVE

STATEMENT OF AMBASSADOR WILLIAM E. BROCK

ACCOMPANIED BY:

DENNIS WHITFIELD, ASSISTANT U.S. TRADE REPRESENTATIVE
JOHN P. GIACOMINI, DIRECTOR, OFFICE OF MANAGEMENT
WILLIAM MARONI, DIRECTOR OF CONGRESSIONAL AFFAIRS
RICHARD HEIMLICH, SENIOR ASSISTANT, U.S. TRADE REPRESENTATIVE

PREPARED STATEMENT

Senator WEICKER. I understand that you have a previous engagement so you will be leaving us. We are in business.

Bill, why don't you go right ahead and handle it any way you want to.

Ambassador Brock. Mr. Chairman, I appreciate that you are on time as usual, and your consideration. I would just give you my statement for the record.

[The statement follows:]

STATEMENT OF WILLIAM E. BROCK

Mr. Chairman, I am pleased to appear before you to present our resource needs for fiscal year 1983 and to respond to your questions. With me is our Assistant U.S. Trade Representative for Administration, Dennis Whitfield, the Director of our Office of Management, John Giacomini, and our Director of Congressional Affairs, Bill Maroni.

Mr. Chairman, as I mentioned last time we were here, we are continuing to work toward passage of a proposed 5-year authorization bill for the Office of the U.S. Trade Representative. With the assistance of the House Ways and Means Committee, we hope to complete the new authorization process before the end of the current fiscal year. Your staff continues to be helpful to us in this effort. We are aiming for early consideration and timely full House action.

Last year USTR completed an internal reorganization. We have included the revised organization chart in our resource request package on page 1. The purpose of the reorganization is to make the best use of personnel and funds so that we can fulfill our mandates from the President and Congress. Also, in keeping with the administration's desire to restrain costs, we are using every means possible to increase productivity and managerial effectiveness with the diminished resources with which we have to work.

For example, since fiscal year 1980, we have held total permanent personnel to 113 full-time positions. This fiscal year we began operating under a workyear allocation of 131 workyears. Within this total allocation, we cannot exceed 113 workyears for full-time, permanent personnel. The remaining 18 workyears are used to employ other-than-permanent personnel, such as consultants, part-time secretaries, and other temporary professional personnel whose expertise is essential for completing our tasks.

To further supplement our permanent staff and to hold down personnel costs, we have been very successful in establishing a volunteer university intern program. More than 14 students assist us on a part-time basis, with research tasks, and represent five local and three out-of-town universities. To date, such a program would have cost us about $25,000.

To be sure, holding to the level of 131 workyears for fiscal year 1983 will spread our staff very thin, especially with new thrusts coming on-line such as the Caribbean basin initiative, preparation from the Gatt Ministeral Conference, and other projects such as the joint United States-Mexico Commission. However, we are fully committed to meeting this challenge.

For fiscal year 1983 we are proposing a budget of $10.1 million which is $1.1 million above our current allocation. It represents a maintenance budget, that will help to offset rising costs. Any reduction will seriously affect our capability to do the job assigned to us. A significant amount of the increase will be absorbed by salary costs and by other rapidly rising costs; for instance, air fares are expected to rise about 15 percent.

Consistent with one of our major goals of getting more for less, we have succeeded in getting the most out of available resources. We have continued to exercise tight controls over expenditures especially for overtime, travel, and procurement. Our senior staff has a direct role in this control process. We have also instituted improved systems for status-of-funds reports and for projections of spending patterns. Furthermore, we are gradually beginning to utilize fully our internal computer capability for streamlining resource reports.

Mr. Chairman, we believe that our request is a very reasonable one and is in accordance with the need for national budget constraints even with rising workloads. With the requested resources, we will be able to pursue the administration's and this Congress' commitments to economic growth, and the strengthening of the Nation's economy.

I would be pleased to respond to your questions on our resource request and on our organization and its responsibilities.

Thank you.

REORGANIZATION OF AGENCY

Ambassador BROCK. We have completed our reorganization. We have submitted a new organizational chart to you. We are operating on a zero growth budget as I guess everybody is. It is extremely tight. We have tried to take every action we can to reduce our costs to the extent of even going out and picking up or soliciting the support of 14 part-time college interns who are a great asset to us. But we have to live within the constraints that everybody is enduring right now.

We have had to terminate our research program entirely. The budget we are submitting to you does grow, but somewhere between 40 and 50 percent of it is mandated by congressional action and the pay raise. Then we removed the cap.

The other part is covered by inflation. There is no change in personnel, and we will have to meet the additional obligations we have this year with the existing staff.

I am not sure I need to add much more than that. That pretty well covers the situation.

Senator WEICKER. I suppose what concerns me is that there is Federal spending and then there is Federal investment. I am going to be candid: I would say a very large piece of the solution to the puzzle to our economic difficulties lies in your hands. I am just a little hesitant to automatically go along with something which could severely impact jobs for people all over this country.

I can assure you that the Japanese do not have a couple of college interns working for them. I do not mean to disparage college interns, but you are, my friend, in the big league ballgame out there right now, which has tremendous consequences.

If you want to get some college interns to start, maybe that is a good thing in terms of a training program, so we will have 2, 3, 4 years out, people that are well versed in this.

That is one thing, but I tell you, I just think this is the wrong place to be cutting budgets and making these kinds of savings.

Ambassador BROCK. I think we have met our basic responsibilities. I am very sensitive to what you say because I do think this is one area where we can really make a valid contribution and that what we do is in the job creation area and in the growth area. It is frustrating.

But you have to accept the fact that all of us are having to carry a piece of the load.

Senator WEICKER. I understand that, Bill, but you are talking about a budget, playing peanuts with—what is this, $20 million?

Ambassador BROCK. Ten million dollars.

Senator WEICKER. That is not even the landing gear on one fighter plane.

Ambassador BROCK. I am aware of that. There are a lot of things on our wish list, too.

PERSONNEL

Senator WEICKER. In terms of personnel, what is your area of greatest concern insofar as this budget being too tight? In other words, where do you feel the impact will be the greatest?

Ambassador BROCK. We have given you our specifics. John has told you how tight we are in the staff. I guess from my own personal point of view, I worry most about our inability to do more creative work, particularly on the research side, that would give us the ability to identify some barriers.

We do not have the people to do that kind of work. We can draw on Commerce and other agencies to a degree, and we consciously do that. We draw very aggressively on the private sector which is helpful, but you are familiar with the new technology that is so incredible in the computer field, for example, where you can use a computer to do 50 or 100 man-years of work in a period of minutes.

In terms of looking at something like the forthcoming ministerial conference, you are balancing so many competing entries that the capacity to move data rapidly would be of enormous value to us. Those are the sorts of things that we just have to do without right now.

BUDGET REQUEST

Senator WEICKER. What was your request? What was your initial request this year?

Ambassador BROCK. We asked for——

Mr. GIACOMINI. About $11.1 million.

Ambassador BROCK. Originally we asked for $12 million, but that was a year ago.

Senator WEICKER. $11.1 million included what; did that include additional positions?

Mr. GIACOMINI. No; no additional positions.

Ambassador BROCK. We did ask for additional positions.

Mr. GIACOMINI. No additional permanent positions, but we hope to pick up contractors and consultants.

Ambassador BROCK. We have proposed 113 original positions. I guess the Agency originally asked for 146, if I remember correctly. We then felt we had reached a compromise last year for 125, and that was rejected.

We asked for 113 which is the same level. The problem that we face with contracting personnel is that it is very hard, in management terms, to maintain the continuity and to build up a talent base over a period of time if you are rolling people in and out from other agencies or from the private sector on a 1-year contract basis. It gives us a more difficult job in terms of management.

Senator WEICKER. Let me take a look at this, Bill. I might make some proposals of my own.

CARIBBEAN BASIN INITIATIVE

I imagine Fritz is going to have some comments on this situation, also. I don't think there is anything else. Staff advises us here as to your role in the Caribbean basin initiative. Are you involved in that?

Ambassador BROCK. Yes; I have coordinated that for the administration. I am the person to whom the task is assigned to pulling other agencies together, and I will be supporting it before the Congress.

Senator WEICKER. Let me tell you something, Bill: I consider that—there are many points on which I have disagreed with the administration, but on this particular thing, I think it is a very positive step in this direction and believe me, it has to succeed. This is my area of the world. I probably know it better than any others. It is really a problem.

I do not care what the papers say about the Soviet arms and everything else; the problem is the United States is not involved. That is the problem. That is the problem.

I would make a suggestion to you: I know the Carter administration did not avail themselves and to my knowledge, this administration has not, but I would really recommend to you that you sit down both with

Juan Luis, who is the Governor of the Virgin Islands—he is a Democrat—and Carlos Romero Barcelo and talk to them. They live down in that part of the world. I know during the Carter administration and during this administration we are making a lot of statements about that part of the world and never consulting with our own guys down there.

I think you will get a pretty straightforward point of view from them. I think it is well worth your time. Certainly, nobody can accuse you of partisanship because each one of them comes from a different party.

Ambassador BROCK. I have met with Governor——

Senator WEICKER. Romero Barcelo?

Ambassador BROCK [continuing]. Romero Barcelo last week. We had serious meetings with their people. If it is within my power, I would like to have them take a leading role because they do know the area and they are very concerned and they have a lot at stake. They should be an example.

Senator WEICKER. They also think Caribbean, and that is an entirely different process. It is what, in some ways, is our greatest adversary. We always try to think United States and the way we live stateside.

It is an entirely different mode of communication.

Ambassador BROCK. I went into this with one conviction: That is, if it became a U.S.-designed program that was imposed once more on that part of the world, it was not going to work. We really had tried to draw from them those things that they thought were most important and structured it in that fashion. I very much appreciate the comment, and I thoroughly agree. We will try to do that.

Senator WEICKER. I have nothing further to say. I think that you are doing a fine job. I just want to make sure that you have tools to do whatever is needed, because you are in a very, very tough spot here. I know that we are all rooting for you.

Ambassador BROCK. I appreciate it very much. Thank you.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. Thank you very much. I have some additional questions that I would like to submit for the record.

[The following questions were not asked at the hearing but were submitted to the Agency for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LOWELL P. WEICKER, JR.

QUESTION

Your full-time permanent staffing level has been frozen at 113 personnel for two years now. Do you expect that the proposed five year authorization bill may raise that ceiling?

ANSWER

The authorization bill will not raise the ceiling. The staffing level has been at the 113 level since the supplemental for the trade reorganization was granted in late 1979.

QUESTION

There has been talk about freezing the fiscal year 1983 budget at the current level. In your estimation, what level of funding would you need in FY 1983 in order to maintain the current program level?

ANSWER

$10,100,000 would be needed as stated in our submission.

QUESTION

From a revised attachment to your budget submission, increased costs for the October 1 pay raise and for lifting the pay cap will total $388,000 for fiscal year 1982. You have been asked to absorb 63 percent of these costs or $243,000. How will this be accomplished?

ANSWER

USTR has already sustained a hefty 10% cut. USTR has no current plans to absorb resources associated with the October 1981 pay raise and the January 1, 1982 lifting of the executive pay cap. Recently, we have requested a pay supplemental through OMB to recover the full amount of the additional pay burden ($388,000). The agency's total funding request therefore, is $9,388,000 for FY 1982. This may increase further due to unanticipated expenses of $84,000 which occurred at our Geneva Office. Please see page USTR-7 of the resource request.

When the FY 1983 Congressional Budget was submitted, no current supplemental was listed per OMB directive. OMB will be submitting supplemental requests separately this year. Usually, this would have been included with the Congressional submission.

Should the request for the full pay supplemental be reduced, the following major areas may be seriously affected, depending on the amount of reductions:

- o continue the current promotion freeze
- o further postpone filling current/future vacancies
- o postpone obligating necessary contractual services
- o delay acquiring badly needed personnel resources on a detail basis

QUESTION

When will you submit a supplemental budget request for fiscal year 1982? How much do you expect it to be?

ANSWER

We submitted a pay supplemental request of $388,000 to OMB on March 1, 1982. Also, a supplemental request of $84,000 to re-

cover exchange rate losses and unanticipated rental increases, both in Geneva. This request went to OMB on March 10, 1982.

East-West Trade Reporting

QUESTION

Why did the U.S.T.R. begin publishing its East-West Trade Report?

ANSWER

Reorganization Plan No. 3 of 1979 (44 F.R. 69273, 19 U.S.C. 2171 Note), implemented by Executive Order 12188 of January 4, 1980, abolished the East-West Foreign Trade Board and transferred to the President the functions of the Board under Section 411(c) of the Trade Act of 1934. Consequently, on behalf of the President, U.S.T.R. resumed preparation of the report in accordance with the provisions of the law.

QUESTION

How does the timing of U.S. Trade Representative's report compare with the timing of the ITC reports?

ANSWER

Both reports are currently issued on a quarterly basis, as near as possible to 3 months after the quarter ends.

QUESTION

Is there enough change in our East-West trade policy to merit a report as frequently as each quarter?

ANSWER

The information required by Section 411(c) to be included in the report could be reported on an annual basis. During the period between reports, other vehicles are available for the Administration to clarify its East-West trade policy, including Congressional hearings and news conferences.

QUESTION

What actions is the U.S. Trade Representative taking to coordinate with the International Trade Commission to avoid reporting duplication?

ANSWER

USTR is aware of the potential overlap between these reports and has attempted to minimize the redundancies. Discussion of trade data, which is fully covered in the USITC report,

is kept to a minimum. However, some overlap does exist with other U.S. Government reports, including the Export Administration Annual Report, published by the U.S. Department of Commerce, in accordance with the Export Administration Act of 1979 (P.L. 96-72, Stat. 503, September 29, 1979). Here again, the East-West Trade Report does not go into detail in this area but refers to the Department of Commerce report. USTR officials have also spoken with representatives from both these agencies to ensure that any duplication is minimized.

QUESTION

How does the U.S. Trade Representative quarterly report differ from the material on East-West trade contained in its annual trade policy report?

ANSWER

The first quarterly report on East-West trade policy provides a review of the previous year's developments in East-West trade. This report is included in the annual USTR report on U.S. trade policy (required by Section 163(a) of the Trade Act of 1974).

QUESTION

What are the advantages and disadvantages of trying to consolidate the U.S.T.R. and ITC reports?

ANSWER

There would be few advantages to consolidating the U.S.T.R. and ITC reports. The Section 411 report is designed to inform the Congress of the Administration's East-West trade policy, as well as trade developments. This report is prepared by USTR, which is the Administration's policy coordinating agency, and is cleared through the interagency Trade Policy Committee. On the other hand, the USITC is an independent investigatory body and, as its report is not cleared by other agencies, it is not in a position to present to the Congress the Administration's policy on East-West trade.

QUESTION

What changes in the legislative reporting requirements does the U.S.T.R. believe should be made concerning ITC and U.S.T.R. reporting?

ANSWER

USTR would support a change in the legislative requirement under Section 411(c). We believe an annual report from the President to the Congress, together with the ITC's quarterly reports, could satisfy Congressional interest in East-West trade and U.S. East-West trade policy.

Q. Your comparatively small staff is involved in complex and technical trade negotiations. To what extent do industry representatives participate in such negotiations and is there a need to increase their participation?

A. USTR manages a system of 45 private sector advisory committees composed of 850 representatives from the industrial, labor, agricultural, service, consumer & academic domestic communities. At their quarterly meetings the advice on guidance is sought on both a broad policy basis as well as in very technical issues.

Q. What is the status of efforts to negotiate with Canada outstanding problems as to their discriminatory practices in investment and energy matters?

A. As you are all aware, the United States and Canada have held numerous bilateral consultations at various levels over the past year in which we have expressed deep concern about the National Energy Program (NEP), the Committee on Megaprojects Industrial and Regional Benefits (CMIRB), and the operation of the Foreign Investment Review Agency (FIRA). These interagency efforts to reach a bilateral resolution of our problems with Canada have, unfortunately, met with little success.

In the presentation of the federal budget late last year, the Canadian Government did publicly commit not to extend NEP policies to other sectors, and not to expand, for the time being, FIRA's mandate. However, the Government has failed to modify the NEP or address our concerns over the current operation of FIRA.

We have decided to pursue certain of our concerns over FIRA in the GATT. Formal consultations were held in Geneva on February 17. If the Canadian response to our concerns is inadequate, we intend to initiate the dispute settlement provisions of the GATT.

On the NEP, the Canadians have steadfastly refused to modify their policies. In fact, a key piece of the NEP implementing legislation, Bill C-48 (which contains the 25 percent "back-in" provision), was passed by the Canadian Parliament at the end of last year. The other major piece of NEP implementing legislation, the Energy Security Act (ESA), was introduced on February 26.

We are continuing our efforts to secure modification of the NEP. In late January, I met with Prime Minister Trudeau on this matter. In response to my suggestion that there were less objectionable alternatives to the current formulation of the "back-in", such as grandfathering or "slide-in", Trudeau stated that he did not

believe that these alternatives would allow him to reach his goal of 50 percent Canadian ownership in the oil and gas sector by 1990. We do not agree with his analysis, and I intend to pursue this matter further with the Canadians. Now that the ESA has been introduced in Parliament, I will also be meeting with the Canadians regarding our concerns over this legislation.

Trade Negotiations

(1) Your procedures seem to provide for industry input in preparation for trade negotiations. What reporting mechanisms do you have to show what consideration was given to industry concerns in trade negotiations?

The Trade Act of 1974 provided for the establishment of a system of private sector advisory committees to ensure that a formal mechanism existed to maintain a continuous dialogue between government and the private sector regarding trade negotiations.

Throughout the Tokyo Round, the advisory committee members, who numbered approximately 1,000, were kept fully informed of the issues as they evolved during the five-year negotiating period. During this time span, a total of 650 meetings of the 45 Committees took place. They supplied detailed information, advice, and recommendations on every industrial, agricultural and labor sector that was affected by the negotiations. This information and advice was then integrated into the government's interagency trade policy development process which ultimately formulated the U.S. negotiating position. For the most part, government negotiators followed the advice of the advisory committees, although it was not always possible to obtain from other countries all the concessions recommended by the committees. In a few cases, it was not feasible to accept the committee's advice because some recommendations were not consistent with overall economic policy objectives of the United States, and some conflicted with recommendations of other advisory committees. Whenever advice was not followed, the government informed the committees of the reasons it was not possible to utilize their recommendations.

This structure remains intact in this post-MTN period.

(3) Question: To what extent is there interagency coordination in defense trade issues arising from coproduction agreements and general memorandums of understanding (MOU's) with our allies?

Answer: Coproduction agreements and MOUs are negotiated by the Defense and State Departments as Defense agreements. As such, there is no formal review or interagency consideration of the trade policy impact of these agreements although from time to time there are informal consultations among agencies.

QUESTION (4)

How do you view the increased incidence of commercial offset agreements between U.S. firms and foreign buyers? What should be the U.S. role in monitoring and controlling such agreements?

ANSWER

We interpret commercial offset agreements to mean performance requirements. We are concerned about the increasing use of

performance requirements where U.S. companies, in order to gain acceptance of overseas investment opportunities, have to undertake a variety of local sourcing or export commitments. This results in other U.S. firms either losing potential exports or competing in the domestic market against government mandated exports.

We believe that performance requirements do pose a serious threat to an open trading system and are working in various ways to check their use.

Bilaterally we are involved in a series of consultations with countries which use performance requirements. We intend to address the use of performance requirements when we negotiate bilateral investment treaties.

Multilaterally we are working to have the issue addressed at the GATT Ministerial and we have started GATT proceedings with Canada over her use of local sourcing and export commitments. We have also been working to have the OECD address this issue.

Q: Recently, your office has accepted four complaints from American producers charging the European Economic Community is illegally subsidizing agricultural exports. U.S. producers of poultry, sugar, wheat flour and pasta formally have charged the EEC with undercutting their competition in world markets by providing export subsidies for European products in violation of the GATT Subsidies Code.

How have the negotiations been proceeding? How likely are you to recommend that the President take retaliatory action?

A: Formal consultations have been held with officials of the European Community in each of the cases cited above with the exception of the pasta case. Thus far, these consultations have not resulted in a resolution of the issues raised by the U.S.

Section 301 directs USTR to continue with dispute settlement in cases where the issue is not resolved through consultations. As a result, we have already gone through the conciliation process (in which the Subsidies Code Committee reviews the facts and attempts to help the two parties resolve the issue) in the wheat flour case and have presented our case to a dispute settlement panel. We anticipate that the panel's findings will be made sometime in May.

With respect to the sugar case, the U.S. will request the Code Committee to begin conciliation within the next few weeks. A request for conciliation in the pasta case has already been made. The Code Committee will meet for this purpose on March 24.

With respect to the poultry case, the U.S. has, through its investigation and consultations with the Community, developed new information which must be examined before proceeding with dispute settlement.

It is impossible to say at this stage whether I will recommend that the President take retaliatory action in any of these cases. We must first see whether we are able to reach a resolution through the dispute settlement process.

Subsidies Agreement

The international agreement on subsidies has been in effect for over 2 years.

(1) How would you assess its impact with regard to:

--the involvement of less developed countries with this agreement;
--potential or actual impact
  --of the use of subsidies by less developed countries,
  --subsidized agricultural exports from the European community on U.S. producers, and
  --on transparency of signatories' subsidy practices;
--what more needs to be done to mitigate problems arising from trade subsidies.

- The involvement of less developed countries:

- Eight LDCs belong to the Code - Brazil, Uruguay, Korea, Hong Kong, Pakistan, India and Chile. Egypt has signed the Code, and will ratify soon. The less-developed countries have been active in the Code. The current Vice-Chairman of the Code, Mr. Vasconcellos, is from Brazil. I would point out that LDC agricultural exporting countries such as Brazil are valuable allies of ours on agricultural subsidies issues in the Code.

- As for impact of the Code on use of subsidies by LDCs, we have negotiated commitments for discipline on export subsidies with Brazil, Uruguay, Korea, Pakistan, India and Egypt. Chile and Hong Kong do not have any export subsidies. The commitments have frozen some export subsidies and phased others out. They have also prevented institution of new export subsidy programs.

- Transparency of signatories' subsidy practices

- We have pushed hard this year to increase transparency of subsidy practices of the Code signatories. This year, signatories were due to complete the regular three-year notification of subsidies' required by Article XVI of the GATT. The Code Chariman was instrumental in highlighting the importance of notification to the Subsidies Code members: a special meeting of the Code was held March 3 of this year to examine signatories' notifications and press for more transparency. At our urging, the Committee has put notification of subsidies on the agenda for the next meeting in April as well.

-- what more needs to be done:

We will continue to move to vigorously enforce our rights in the Code, by --

o actively pursuing the present 301 subsidies cases and

o actively pursuing the United States interest in the Code Committee as the Committee continues to define in its work what the meaning of the Code is.

(2) In the Tokyo Round of the MTN, we gave up restricted use of the "injury test" in countervailing duty investigations (i.e., for duty-free imports only) for what we believed to be increased international discipline over trade subsidies. As a result of the Subsidies Agreement, what new or additional "benefits" have we received?

We have received significant benefits in return for the injury test.

-- LDCs acceding to the Code have agreed to restrain their export subsidies.

-- Developed-country Code signatories have been prevented from instituting export subsidies even now, at a time of severe economic stress worldwide.

-- We have gained a forum for our complaints against the EC's predatory use of agricultural export subsidies.

-- We have gained membership in the Code Committee, which will definitively interpret the Code, and in the technical experts groups, which will write the detailed rules on subsidies under the Code. Because we are a member, any consensus on these rules will have to have our agreement to it.

-- Before the Code, subsidies were the single most under-regulated area in the GATT. The Code and the Code Committee have brought the subsidies issue a high visibility that is to our benefit.

We are just beginning to test the viability of the Subsidies Code, particularly as it relates to agricultural products. Therefore, it is too early to fully assess the Code's usefulness to the United States agricultural community. However, the Code certainly is more precise than the GATT was prior to the Code, and we hope it will provide a basis for us to control future use of EEC subsidies through developing case law in this area.

We presently have four cases against the EEC proceeding in the Code dispute settlement process (wheat flour, sugar, poultry and pasta); and we expect to begin to see the results of that process in May and June, 1982.

Monitoring of Subsidies

(3) Being able to defend against an illegal subsidy practice depends in part on whether the Government knows about such practices. Does the Government have any systematic method of monitoring and evaluating potentially actionable subsidy practices of foreign governments, or does it rely largely on private parties to bring such practices to its attention?

Countervailing duty cases in the past have produced a large amount of information on subsidy practices abroad. Also, since the MTN, our embassies abroad have been instructed to inform Washington on subsidy programs in their countries. One-time reports have been followed by periodic updates.

This and other information about subsidies abroad is collected in the Subsidies library, which is the responsibility of the Commerce Department.

In addition, my subsidies staff keep track of developments in the subsidies field and have their own files on the subsidies field.

We appreciate the efforts of the U.S. embassies abroad in reporting on subsidies. We realize, however, that in order to keep U.S. government neutrality in CVD cases -- which is essential to setting the foreign government cooperation we need to enforce the CVD laws -- there may be limits to how active our embassies can be in gathering information on subsidies --

information that foreign governments may see as inciting CVD cases.

Import Relief Program

GAO, in its review of the import relief program (ID-81-42, 8/5/81), noted that insulating an industry from compeition can tend to prolong rather than accelerate the adjustment process and, therefore, a comprehensive adjustment strategy should be supplied to the Government as a quid-pro-quo for relief so the Government can monitor the petitioner's adjustment process.

What have you done regarding GAO recommendation that the Office of the U.S. Trade Representative, in conjunction with the International Trade Commission:

--Request petitioners to submit more detailed adjustment strategies tied to the level of relief granted and monitor their compliance.
--Periodically collect data on the conditions of all industries provided import relief to determine whether their financial conditions have improved and what they have done to increase their competitiveness.

Also, would you comment on GAO's recommendation that the Congress change the Trade Act of 1974, as amended to:

--Require petitioners to submit to the Office of the U.S. Trade Representative specific adjustment strategies.
--Prohibit one segment of the manufacturing process to petition, e.g., labor or management unless it is evident that this is the only segment from which specific adjustment commitments will be sought.

I agree with the GAO's general premise that import relief generally should be granted to industries where there is a reasonable chance for adjustment to import competition. To justify the burden which import relief places on the American public, relief should be of limited duration and the industry should reasonably be expected to return to fully competitive operations.

An inter-agency group is currently reviewing the various proposals for improving Executive Branch administration of Section 201/203 import relief programs, including those recommendations made by the GAO. The inter-agency group is giving special attention to proposals for providing additional emphasis on adjustment issues in the initial Executive Branch Section 201 process as well as proposals for periodic evaluations of industry adjustment efforts during the relief period. The inter-agency group's recommendations and proposals will be presented for Trade Policy Staff Committee (TPSC) consideration in the next several months. As soon as these recommendations are complete, we will be glad to discuss the TPSC's decisions on specific proposals with Committee members and/or their staffs.

In the recent relief cases, we have followed the thrust of the GAO's recommendations by giving careful consideration to the question of adjustment in the Section 201/203 investigations we have processed this year. In the wooden clothespin case, the President decided that import relief should be extended for two additional years to enable the industry to preserve its marketshare and complete its adjustment plans. In the high-carbon ferrochromium case, the President extended import relief for an additional year to allow the industry additional time to adjust. He noted further that there was a Section 232 national security investigation on ferroalloys and requested that this investigation be expedited. In both of these cases, the industries submitted adjustment strategies tied to the need for import relief. In both cases, adjustment con-siderations were central to the decision to extend relief.

In contrast, import relief for fasteners was allowed to expire after four years because the President, in agreement with the United States International Trade Commission (USITC), determined that additional import relief would not help the industry to further adjust to import competition. The USITC found that depressed domestic markets were responsible for the industry's difficulties and that despite depressed demand fastener industry profits were higher than the average for all manufacturing.

In response to your request for my thoughts on certain specific GAO recommendations, I offer the following comments. First, we feel that our existing statutory authority is sufficient to allow us to request information about a petitioner's adjustment strategy. We are not persuaded that the GAO's approach of requiring specific, written industry/firm adjustment commitments is practicable or advisable. We feel that the objective of promoting adjustment is best served by (1) having industries and their workers continue to make their own decisions regarding appropriate and feasible adjustment strategies, and (2) ensuring that there is thorough U.S. Government attention to these adjustment plans in the Executive Branch decisionmaking process.

Finally, we cannot agree with the GAO recommendation that the Congress should amend current escape clause laws so as to require joint management and labor petitions for import relief unless it is evident that adjustment commitments will be sought from only one of these two segments. In our view, enactment of this GAO proposal will have the practical effect of withholding from labor the right given to it by Congress to seek relief whenever imports cause or threaaten to cause the loss of jobs. Further, the GAO proposal may have the unintended effect of preventing labor from seeking relief in legitimate situations in which its interests differ from those of management and may give management an unfair advantage to demand labor concessions as a quid pro quo for joining in a petition.

Although we are sympathetic to GAO's concern that any relief granted result in effective adjustment, we believe that the GAO proposal is not the proper vehicle for accomplishing this objective. We are not persuaded that the case for specificity of adjustment plans presented by the GAO is strong enough to reverse the longstanding principle formulated by Congress which recognizes that the interests of labor and management in the well-being of U.S. industries may not always be congruent. We believe that the objective of more specific adjustment plans can be accomplished through increased OUSTR and interagency attention and emphasis on adjustment issues in escape clause cases, as discussed above.

QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

Q. It is my understanding that the domestic apparel market is growing at only 1 to 1½ percent a year. The Administration has been quoted as saying that it would not seek roll-backs in trade levels during the bilateral negotiations. I notice that we have just completed bilateral negotiations with Pakistan, Brazil, and Columbia, and these agreements are essentially roll-overs of existing agreements. Can you explain to me how we can be generous with our Caribbean neighbors and other Later Developing Countries, hold total growth to 1½ percent, and do all this without reducing actual imports from Korea, Hong Kong and Taiwan?

A. The Administration's textile policy, in light of the renewed Multifiber Arrangement, is to sharply cut back the annual increases currently permitted on the highly utilized import quotas for Hong Kong, Taiwan and Korea. In certain cases where the quotas of these top three suppliers are not

fully utilized we intend to seek cutbacks in those quotas. As these three suppliers accounted for over 60 percent in 1981 of U.S. apparel imports, reductions of the magnitude envisioned should permit small and new suppliers, including the Caribbean Basin countries, to enjoy more favorable treatment.

Q. Last year, shipments of textiles and apparel from the PRC grew at over 75% from 1981. The current agreement, which expires at the end of this year, has quotas on only about 13 categories out of 108, and there is no overall limit on how much the PRC can ship to us. How are you planning to limit the growth of imports from China, a country with the textile-producing capability to inundate us? Are you planning to negotiate a comprehensive-type agreement to control many more categories? If the PRC refuses to negotiate such an agreement, is the Administration prepared to act quickly to impose unilateral controls on a wide range of categories?

A. Paragraph 8 of the U.S.-PRC textile agreement provides for consultations to establish quota levels on PRC exports when the United States believes these goods are, due to market disruption, threatening to impede the orderly development of trade between the two countries. If no agreement is reached during the ninety-day consultation period, then the Chinese are obliged to restrict their exports to the United States to a minimum level specified by the agreement. This consultation mechanism provides a comprehensive means of addressing PRC exports not already under quota which threaten market disruption. In the renegotiation of the current agreement we will seek, where appropriate, restraint levels on categories not currently controlled. The United States maintains its right to take unilateral action under section 204 of the Agricultural Act of 1956 in order to prevent market disruption if the bilateral agreement is not renegotiated before its expiration date.

Administration spokesmen have many times talked about their trade goal of letting the forces of the market operate freely, thereby creating the kind of environment for American manufactures to compete effectively. This makes nice rhetoric for Chamber of Commerce luncheons and all the rest, but how in fact do our people compete when many times the foreign firm is government-owned and run -- an increasingly common phenomenon?

Just because a foreign firm is government-run does not mean it is more competitive. In fact, in many cases, government ownership means that a firm cannot lay off workers where they are no longer needed, or a firm cannot innovate when that would adversely affect government policies. After all, there is an advantage to a free enterprise system. At the same time, we must insist that foreign governments abide by GATT rules which limit subsidization of exports.

Budget

1. Ambassador Brock, in your statement you speak of 113 full-time positions plus 18 workyears of other-than-permanent personnel. However, when we look into the justifications, we find that there are some 110 occupied full-time permanent positions, plus 68 non-ceiling personnel. Tracking all these personnel through all the footnotes in the justifications would drive an IRS agent to distraction, but Mr. Ambassador, do you have any idea of the number of people who are working in your organization?

   Yes, we have an accurate accounting of the number of people working in our agency.

   The following employment designations count as workyears: permanent positions, other-than-permanent positions such as consultants, temporaries, part-time employees, and 1040 appointments. The following are not included in the workyear count: stay-in-school students, contractors, reimbursable and non-reimbursable details, and consultants who provide advice under interagency agreements, and student volunteers.

   Utilizing a workyear allocation has created an additional accounting and monitoring workload since every percentage point of a workyear has great significance for an agency of this size, and must be used wisely within our tight workyear allocation.

   The total workyear allocation is 131 workyears. This is divided between 113 workyears (to cover 113 permanent positions) and 18 workyears which cover full-time and part-time, other-than-permanent personnel who enter into the workyear count (see paragraph 2 above).

   We understood that committees wanted a full accounting of how the workyears are being utilized and also, of total personnel in the agency.

   Please refer to the "Staffing" sections on pages USTR-9 through USTR-51 of the Congressional submission. These sections total 205 individuals. The enclosed chart "USTR Staff Breakout" (Enclosure 1), delineates how these individuals are categorized by object class and how the different "Position Type"(s) relate to the "Workyear Equivalent."

   Regarding "110 occupied full-time permanent positions", that was the exact count as of 2/5/82 (see page USTR-53). Since that date, one vacancy has been filled, another is in the final stages of personnel processing, and for the third, the vacancy announcement process is under way.

   We have utilized our workyear allocation and personnel funds to allow the agency to fulfill its goals in an efficient manner, and to accommodate changing priorities and evolving organizational needs.

2. According to the justifications, the USTR has established some kind of permanent temporary staff.

   -- Is this merely a device to camouflage employment in the Executive Office of the President?

   All procedures used for employing essential staff are in accordance with official regulations and processed through the Office of Administration, Executive Office of the President. None are devices "to camouflage employment." Please refer to Question #1 and Enclosure #1.

3. The Deputy USTR-Washington is assigned an Executive Assistant who is designated other-than-permanent. How long is that position going to be required?

   The Deputy USTR requires and has always had an Executive Assistant. (Currently, the incumbent is a White House Fellow

and therefore, classified as "other-than-permanent". Upon his departure we intend to fill the position with a member of the permanent staff.)

4. In Geneva, the Deputy USTR, The Deputy Chief of Mission, the U.S. Representative to the Textile Surveillance Board, the Agricultural and Commodities Attaches, the Administrative Officer, a Secretary, two Driver-Messengers, the file clerk and telephone operator are all designated as "Contractors, details." In fact, only 4 of the 17 positions are designated as permanent positions.

   a.) Aren't these all permanent positions and why aren't they budgeted as such?

   b.) How many of the persons in Geneva are on detail from the foreign service?

   c.) What is the difference between an Agricultural Attache and a Commodities Attache?

Additional positions which USTR was given, under the trade reorganization, were negotiated with OMB. The additional positions which the agency was granted were then used in the best way possible to accommodate new and expanded responsibilities both in Washington and in Geneva. As part of that development, the intention was to incorporate as many DOS employees with certain expertise and who were already in Geneva into our Geneva staff and because their duties became ours under the reorganization. At the time this was believed to be both beneficial and economical to all concerned and to the goals of USTR's Geneva office. This approach was never contested by any of the agencies involved and was done willingly.

Five of the seventeen positions are designated as permanent positions. They are:

1. GATT Affairs Attache
2. MTN Codes Attache
3. Attorney
4. Secretary
5. Secretary

The following are details:

1. Deputy USTR*
2. Deputy Chief of Mission*
3. Minister-Counselor-U.S. Representative to the Textile Surveillance Body*
4. Agricultural Attache
5. Commodities Attache*
6. Secretary
7. Secretary*

These positions which are asterisked (*) are reimbursable details; the others are nonreimbursable. Positions #1, 2, 3, 5, and 6 are details from DOS; positions 4 and 7, from Agriculture.

The following positions are other-than-permanent:

1. Driver-Messenger
2. Driver-Messenger
3. Administrative Officer
4. Records Clerk
5. Telephone Switchboard Operator

All of the above are contract employees.

Working within tight resource limitations and the needs of both the Washington and Geneva offices, we believe we have the best possible staffing pattern for the Geneva office and the most economical.

An Agricultural Attache has a broad role in that he covers grains, feeds, and livestock. The Commodities Attache covers tin, rubber, cocoa, sugar, coffee and other commodities which have significance in our negotiations and dealings with foreign countries.

5. Where is the Deputy Chief Textile Negotiator on detail from and why isn't that position part of your permanent staff?

The Deputy Chief Textile Negotiator will come to us on detail from DOS.

The designation of a Deputy evolved from organizational needs, i.e., a proliferation in the number of bilateral agreements to be renegotiated this calendar year and into next year and additional issues which require more staff analyses and attention. The individual we have chosen has a unique background and negotiating experience in this field. Since the individual wishes to remain in the foreign service and because of the qualifications required for the position, we have arranged for a detail to USTR.

6. Why are two of your International Economists on detail to the Department of Commerce? Who are they assigned to in Commerce?

We have an informal exchange program with Commerce which is beneficial to both agencies. An exchange of personnel promotes improved understanding of each agency's functions and makes for improved interagency cooperation on trade policy matters. This is an even exchange since we have two Commerce economists working with USTR. The individuals involved from this agency are assigned to ITA; those from Commerce are assigned to USTR's Service and Policy Planning Unit and to the Americas Unit. This exchange is also in keeping with one of the thrusts of the trade reorganization, i.e., closer cooperation and improved understanding of each agency's functions and with the CSRA, by providing substantive developmental assignments. Both agencies gain.

7. According to p. 8 of the justification, an additional $5,000 is requested for representation. However, the language requested in the President's Budget continues the current $60,000 limit for representation. Why is more money being requested if the limitation stays the same?

(Note: Representation was $15,000 in 1979; $20,000 in 1980, $35,000 in 1981, and raised to $60,000 in 1981.)

USTR did request an increase in representation funds in the budget submission to OMB. However, the decision to revise the language was not made before the budget went to printing. The request is based on inflation.

8. The USTR is requesting $84,000 in a supplemental appropriation for exchange rate losses in Geneva. The exchange rate prescribed by OMB in the fiscal 1982 budget was 1.73 Swiss francs to the dollar; the exchange rate as of February 28, 1982 was 1.89 Swiss francs to the dollar. Why is a supplemental required in view of the exchange gain in Geneva?

Geneva's FY 1982 initial budget was established at an exchange rate of 1.9345 Swiss francs to the dollar. The losses occurred heavily in the 1st quarter when the exchange rate dropped to 1.7+ to the dollar. Total exchange rate losses estimated for the year are $60,861. The remaining amount constitutes losses for unanticipated rental increases. This increase was a result of "indexation". Rental costs are calculated by a complicated formula based on "basket of prices" and interest rates. Any change must exceed the indicator (base) by 10 points before an increase can be requested. At the present rate of inflation in Switzerland, this takes about 2 years to come about. All calculations were done by the U.S. Mission in Geneva.

USTR Staff Breakout
(as of 2/23/82)

Enclosure #1

Object Class	Position Type	# Positions Washington	# Positions Geneva
11.1	Full-time Permanents (FTP)	108	5
	(Sub-total 11.1)	108	5
11.3	Positions Other than FTP:		
	Full-time Consultants	6	0
	Part-time Consultants	2	0
	Full-time Temporaries	10	0
	Part-time Temporaries	2	0
	Part-time Permanents	2	0
	1040 Appointments	1	0
	Stay-in-School Students*	8	0
	Student Volunteers*	16	0
	(Sub-total 11.3)	47	0
11.8	Details:		
	Reimbursable*	8	5
	Non-reimbursable*	6	2
	(Sub-total 11.8)	14	7
25.1	Other Services		
	Contractors*	10	5
	Interagency Agreements*	9	0
	(Sub-total 25.1)	19	5
	Total Staff	188	17
	USTR Total:	205	

Summary

Object Class	Position Type	# Positions	Workyear Equivalent
11.1	FTP	113	113
11.3	Other than FTP 1/	23	18
11.3	Other than FTP 2/	24	0*
11.8	Details	21	0*
25.1	Contractors/Agreements	24	0*
	Total	205	131

1/includes workyear positions consisting of full and part-time consultants, full and part-time temporaries, part-time permanents and 1040 appointments.

2/includes non-workyear positions consisting of Stay-in-School students and volunteers.

*does not count against workyear allocations

NOTE: 1 workyear = 2,080 paid hours. Therefore, a part-time employee working 20 hours a week will count as .5 workyears.

QUESTIONS SUBMITTED BY SENATOR DALE BUMPERS

Q. Mr. Brock, I've written to you in the past concerning import restrictions imposed by the United Kingdom on poultry. Apparently, the restrictions have been imposed by the U.K. in order to try and protect its domestic flocks against Newcastles Disease. The end result, however, has been that our servicemen stationed there (about 25,000 in number) have not been able to eat American-produced poultry and have been fed poultry products produced in the United Kingdom.

In our correspondence, you have stated that the Department of Agriculture requested an exemption from the restrictions, but this request was denied.

Have there been any other steps taken with regard to this matter by either your office or the USDA and what is the current status of the situation?

A. I have checked with USDA and there is nothing new to report to you regarding the restrictions placed on U.S. uncooked poultry exports to the United Kingdom because of the U.S. vaccination program for Newcastle disease. Attached is a copy of my January 19 letter to you which gives the details of the issue (see attachment).

January 19, 1982

The Honorable Dale Bumpers
United States Senate
Washington, D.C. 20510

Dear Dale:

Thank you for your letter of December 30 on behalf of Mr. Lovette regarding barriers to commissary sales of U.S. poultry in the United Kingdom.

On September 1, the United Kingdom adopted a slaughter program to eliminate Newcastle disease. In order that vaccinated birds do not contaminate their national flocks, the United Kingdom no longer permits imports of uncooked poultry or unpasteurized eggs from countries which do vaccinate for Newcastle, such as the United States.

While we have complained to the United Kingdom about the suddenness of their actions to limit imports (i.e., only 4 days prior notice was given), USDA veterinarians feel that the U.K. control program is in keeping with restrictions a country would normally impose as it moves solely to a slaughter program for controlling animal disease. The United States, for instance, prohibits imports of uncooked beef from countries which use a vaccination to combat foot and mouth disease. We recognize only a slaughter program for eliminating that particular disease.

If we had conclusive evidence that the Newcastle virus vaccine could not be sloughed off and therefore not endanger healthy birds, we would not hesitate to complain of this restriction as a non-tariff trade barrier. Unfortunately, while USDA officials feel the linkage between the virus and the disease is remote, they are not able to completely refute it.

USDA asked for an exemption from the regulations for commissary and troop mess use. Both requests were denied because U.K. officials felt there was not sufficient control over the disposition of the product to guarantee that it would not become a source of contamination to healthy birds. We are continuing to seek an exemption for troop mess because the product would be consumed on the base and all base refuse is incinerated. For commissary sales, we are unable to claim that adequate "safeguards" exist because commissary purchases are not likely to remain on the U.S. military base.

I regret that I am unable to be more helpful but without scientific evidence to support us we would be unable to defend our position that this is indeed a non-tariff trade barrier.

Very truly yours,

SIGNED

WILLIAM E. BROCK

QUESTION 2: There has been a problem, which I'm sure you are aware of, with regard to Korea and whether or not it will honor its commitment to purchase 500,000 metric tons of American rice. This commitment was given by the Korean Government and the purchases are to be made prior to the end of August so it will not interfere with this year's rice harvest. Recent reports have stated that Korea has issued a tender for 370,000 metric tons, but that still leaves 130,000 metric tons.

(A) Have there been any developments in the last couple of weeks?

(B) What contact has your office had with officials of the Korean Government concerning the shipments of rice?

(C) Do you have any knowledge as to when the rice might start leaving this country?

ANSWER: I can assure you that this Administration has been in almost daily contact with Korean officials on this issue. While we still have a few outstanding problems as concerns Korean purchase plans, we fully expect that the Korean Government will honor its commitment and that 500,000 tons of California rice will be shipped to Korea before the next crop is harvested. USDA analysts tell us that 70,000 tons has already been sold and registered under the U.S. Export Sales Act; an additional 60,000 tons of U.S. rice is believed to have been sold, but not yet registered. On March 11, 1982, the Korean Government opened a tender for the remaining 370,000 tons. While it is not yet clear exactly when actual shipments will be made, the tender specifies shipments beginning in May.

QUESTION 3: Last year's rice crop was the largest in history. Nationally, 185.3 million hundredweight was harvested (407.6 million bushels). In Arkansas, the leading rice-producing state, we harvested 69.9 million hundredweight (153.7 million bushels). With this large rice crop and exports down, the price has dropped below $4 per bushel, and some farmers haven't even been able to get a bid on their rice. In light of this huge surplus of rice, what steps, if any, has your office taken to try and move some of this crop overseas?

ANSWER: This Administration is greatly concerned about the supply/demand situation in the rice market and the current low level of U.S. prices and we have taken a number of steps to try to ease this situation. First of all, we have asked our

Embassies and Agricultural Attaches to redouble their efforts to promote the export of U.S. rice. We are also reviewing our export credit and P.L. 480 programs with an aim towards increasing, where appropriate, the export of rice. For example, we recently offered Brazil a $120 million credit under the GSM-102 program for the purchase of rice.

COMMISSION ON CIVIL RIGHTS

STATEMENT OF ARTHUR S. FLEMMING, CHAIRMAN

ACCOMPANIED BY:

JOHN HOPE, III, ACTING STAFF DIRECTOR
BERT SILVER, ASSISTANT STAFF DIRECTOR FOR ADMINISTRATION
JOHN G. BIRKLE, BUDGET OFFICER

BUDGET REQUEST

Senator WEICKER. I am delighted to have you here and that actually does come from the heart. I am a great admirer of yours, a great admirer.

Mr. FLEMMING. I appreciate that very much I can assure you that I have admired your leadership during the last 9 months.

Senator WEICKER. Our next request is that of the Commission on Civil Rights. The request is now $11,626,000 a decrease of $692,000 from the 1982 base and a decrease of 33 permanent positions.

Appearing on behalf of this request is Dr. Arthur Flemming, the Chairman, who is accompanied by John Hope, III, the Acting Staff Director. Mr. Hope?

Mr. HOPE. Yes.

Senator WEICKER. Bert Silver, the Assistant Staff Director for Administration; and John Birkle, the Budget Officer.

Dr. Flemming, we are going to be pleased to hear your statement but I would like to make a statement for the record at this point. Two things: First of all, to place on the record my admiration for the leadership which you have given to the Commission over the years. I know I am not supposed to be partisan, but I am particularly grateful because it comes from a Republican among which group of people to which you have dedicated a good portion of your life, Dr. Flemming, is not often discussed or often acted upon.

Second, I would like to say that if there was ever a time where leadership is needed, it is right now. The difficulty has been the Republicans traditionally have not overly involved themselves in matters of civil rights. The Democrats seem to have headed for the hills, and the field is bare, but the problems are all there.

The deprivation and the denial of opportunity is there in as many numbers and situations as has ever been the case in our history. No. 1, as it relates to the budget which comes before the committee, I am not overjoyed in seeing a decrease in the funding for personnel for the Commission.

I think that you would agree with me Dr. Flemming, that not all the money in the world is not going to solve this problem. It is a matter of leadership at all levels of government. Where the leadership is insisting on the quality of opportunity under our Constitution, believe me, the negative voices do not stand a chance. If the leadership is silent, if the leadership waffles, if the leadership is going in the opposite direction, I believe all sorts of problems occur.

The people that have the attitude to uphold the Constitution, which does require sacrifice—it always has and it always will—if it does not mean anything to the leaders of this country, then maybe they should not be here. I suppose that is why I have even greater reservations about that attitude than I do about this budget.

I would hope in these months ahead that we all recognize that the country moves far better when we move together than as separate pieces—separate but equal. These are all things that come from my heart, both in a personal sense to you, Dr. Flemming, and also in the sense of principle. I know just as sure as I sit here that the years and the devotion that you have put forth are not in any manner, shape or form wasted—as it is the American custom to sometimes come into favor and out of favor. Maybe you have seen better days in terms of those that seek you out; the same might hold true of me. But in any event, I know that both of us are committed to something which eventually will be the realization of this country. Both of us are bound to have this happen sooner or later.

ANTICIVIL RIGHTS RIDERS

Mr. FLEMMING. Mr. Chairman, first of all, I want to express to you my deep personal appreciation for your comments relative to my work with the Commission and my work in other positions. It means a great deal to me coming from you because of the outstanding leadership that you have provided to the civil rights movement.

I would like to say this: As you know, our Commission in the last 3 years, particularly, has been deeply concerned about the growing practice on the part of the Congress to attach what we have referred to as anticivil rights riders to appropriations bills or appropriations authorization bills. It seems, to us, that this back door approach to weaken or repeal portions of landmark civil rights laws such as the Civil Rights Act of 1964 reached a climax last week with the attachment of the Helms-Johnston rider to the appropriations authorization for the Justice Department.

As we wrote you when you were in the middle of that debate this amendment would not only prevent the executive branch from effectively enforcing *Brown* v. *the Board of Education* and *the Civil Rights Act of 1964*, but it would also, in our judgment—and I know you made a strong point of this—violate the Constitution of the United States by denying to the courts the freedom to develop remedies growing out of findings that school districts have violated the Constitution.

I just want to say that all of us, admire and respect you for the courage and statesmanship that you have displayed in opposing this rider against tremendous odds.

I, like you, have seen the pendulum swing various ways. I am convinced of the fact that the vote in the Senate is not the final word by any means in terms of this Nation's commitment to the Constitution of the United States. I believe that there is strong support at the grassroots for *Brown* v. *the Board of Education* and all that it stands for.

Personally, one of the things I am going to try to do is to see if we can identify that support more effectively than possibly it has been identified in the past, and see if we can get those who do support it to express themselves more effectively when we confront the kind of a crisis that you confronted in the Senate. I have not given up, by any means, and I know you have not. I look forward to continuing to work with you and others in order to demonstrate that we have the commitment and the capacity as a Nation to take the rhetoric of the Constitution and make it mean something in the lives of those who have been and still are the victims of discrimination.

I cannot begin to tell you what an inspiration your battle on the floor of the Senate has been to all of us who are involved in the civil rights movement. We deeply appreciate it.

Senator WEICKER. Thank you. Thank you very much.

FISCAL YEAR 1983 REQUEST

Mr. FLEMMING. As you indicated, I am here to testify on behalf of the President's request for $11,626,000 and 215 permanent positions. We anticipate the appropriation for fiscal year 1982 will be $12,318,000 supporting 248 permanent positions. The 1983 request thus represents a decrease of $692,000 and 33 permanent positions. Legislation to authorize this request will be introduced soon.

In connection with the submission of the fiscal year 1983 budget, the President, in special analysis J entitled "Civil Rights Activities" stated:

> Congress established the Commission on Civil Rights in 1957 to study the enforcement of laws guaranteeing civil rights regardless of race, color, religion, or national origin. During the 1970's, the Commission mandate was expanded to cover civil rights issues related to sex, age, and handicap. Since its inception, the Commission has focused its energies on research demonstrating the existence of civil rights problems.

I continue to quote:

> This emphasis was appropriate to the early years of the Commission's existence. However, the questions of the 1980's involve not whether civil rights problems exist, but how to most effectively resolve them. The President believes that the Commission's contributions to answering those questions can be more substantial and original than they have been. He therefore appointed leadership that will renew the Commission's relevance.
>
> Many employers and institutions have instituted effective programs for resolving civil rights problems. The Commission will devote increased emphasis to identifying these initiatives and sharing them with others who can benefit from them. It will also provide significant backup support for the technical assistance efforts of other civil rights agencies. As part of this renewal, the Commission will initiate a study in 1983 of how the role of State and local agencies in civil rights enforcement can be expanded.

That is the end of the quote from the budget document.

MONITORING FUNCTION

One of the most important functions the Commission performs is that of monitoring and evaluating how well Federal agencies enforce civil rights laws as well as monitoring and evaluating the effect various Federal Government program activities have on civil rights. This is an activity we see as growing in importance as efforts are made to realine program activities between the States and the Federal Government.

As a result of our monitoring efforts, the Commission publishes short evaluation studies to update specific areas of concern.

In fiscal year 1982, we issued a report on the State Department's efforts to provide equal employment opportunity in the foreign service. Later that fiscal year, the Commission issued a report, a rather unique report, examining the impact of proposed budget cuts on civil rights enforcement efforts and programs enacted to overcome the effects of discrimination. In 1972 that report will be updated.

In fiscal year 1982 we have issued a report assessing the extent to which the Farmers Home Administration's programs contributed to the decline in black operated farms. Also, we issued a report on the status of desegregation and another report calling attention to major developments in both the legislative and executive branches which, in our judgment, would have an adverse impact on achieving the goal of equal educational opportunity. That one was released just a few weeks ago.

In the remainder of fiscal year 1982 and through 1983 we will monitor and evaluate such areas as the impact of block grants on civil rights enforcement, State civil rights enforcement activity, desegregation in higher education, title IX enforcement, and proposed changes in the Federal contract compliance program. In fiscal year 1983, we will also begin a study to assess the role of State agencies in the enforcement of civil rights protection under Federal laws. That is the study referred to in the President's budget document.

HATE GROUPS

We remain deeply concerned about the way in which violence and incitement to violence have, over the last several years, been encouraged by organizations fomenting racial and religious hatred. Our State advisory committees and regional offices last year undertook to monitor and study this critical problem. A report resulting from that effort will be released later in the year.

VOTING RIGHTS

Since its inception in 1957, the Commission has conducted hearings and studies designed to insure equal access to the political process by minorities. In fiscal year 1981, we completed and issued a major study dealing with the extension of the Voting Rights Act of 1965. In fiscal year 1982, we responded to congressional requests for additional information based upon results of our study.

Also, the State advisory committees in Alabama, Georgia, Mississippi, and South Carolina are carrying out projects in their States concerning voting rights.

The California State Advisory Committee is studying the results of reapportionment on minority communities. As you know, the Congress has assigned the Commission the specific responsibility of investigating "allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their rights to vote and have that vote counted by reason of their color, race, religion, sex, age, handicap, or national origin." Monitoring in this critical area will continue in fiscal year 1983.

EQUAL EMPLOYMENT OPPORTUNITY

We consider equal employment opportunity to be one of the most important issues in the field of civil rights. Our study on unemployment and underemployment of minorities and women will be completed this fiscal year. Another report dealing with the role of nonreferral unions in promoting equal employment opportunity has also been completed and will be released shortly.

In November 1981 we issued a statement, "Affirmative Action in the 1980's: Dismantling the Process of Discrimination," which addresses the utilization of affirmative action plans by public and private employers to achieve the goal of equal employment opportunity. The statement was earlier prepared in draft form. Two public consultations were held during which persons holding a variety of opinions on affirmative action commented on the proposed statement. Revisions were made, and the statement was issued. The State advisory committees of Massachusetts, New York, and those served by the central states regional office are conducting followup projects on affirmative action.

In fiscal year 1983 we will undertake a project to assess both the difficulties and the successes of private organizations in dealing with employment discrimination. We will try to identify elements common to successful affirmative action plans in the private sector. The continuing wide gap between the unemployment rates of white males and minorities and women demonstrates that we have a long distance to travel before we can indulge in any feeling of complacency in the area of equal employment.

EDUCATION AND SCHOOL DESEGREGATION

The Commission continued its work in the areas of education and school desegregation. In fiscal year 1981 we issued, as I noted, a brief report dealing with the historical background of segregation in higher education in the southern and border States. It also dealt with the efforts which began in the 1970's to desegregate colleges and universities, efforts which have resulted in very little progress.

In fiscal year 1982 we are continuing our involvement in that area by analyzing minority student representation in institutions of higher education. Phase I of the project will deal with black students in six States subject to desegregation court orders; phase II will expand the project to include four additional States and will also deal with Hispanic students. The Oklahoma State Advisory Committee has initiated a statewide project in the same area.

Our historical interest in public elementary and secondary school desegregation continued. In fiscal year 1982 we published a report describing the legal context of school desegregation, including actions by the executive, legislative, and judicial branches of the Federal Government, the progress that has been made in this area and the effects of desegregation on students.

We recognize that although desegregation is underway in hundreds of communities in this Nation, there are still many communities where children and young people are being denied their constitutional rights because of the existence of a segregated school system. For that reason this Commission believes that monitoring of school desegregation should be accorded a top priority during the remainder of fiscal years 1982 and into 1983.

HOUSING AND CIVIL RIGHTS

In 1982 the Commission plans to hold a 2-day consultation on housing and civil rights, an area where the Nation has failed to come to grips with discrimination in any significant or effective manner. It will deal with a variety of housing discrimination problems and how those problems affect minorities, female heads of households, the elderly and, if information is available, Euro-ethnic Americans.

The proceedings of the consultation will be published in fiscal year 1983. State advisory committees in the eastern, midwestern, and northwestern regions will be involved in fair housing followup activities in 1982.

MINORITY ECONOMIC DEVELOPMENT

In November 1981 a 2-day hearing was held in Baltimore, Md. on urban minority economic development. Testimony dealt with the state of minority economic development in relationship to the entire economic setting. Continuing barriers to minority business enterprise and employment were identified. A report will be issued containing findings and recommendations growing out of this hearing. In this fiscal year, we will also issue a report based on hearings dealing with the state of civil rights in Miami, Fla.

FUTURE HEARINGS

In fiscal year 1983 one hearing of 2-days' duration is planned. At this time we have not established the hearing topic, but it will most likely deal with one of the following: civil rights of migrant and seasonal farm workers; school desegregation and quality education; Federal response to the underclass or bigotry and violence.

PROTECTED CLASSES

Work continued on the civil rights problems of a variety of "protected classes." The national Indian project was completed with the issuance of a report in fiscal year 1981. Two reports were released in fiscal year 1982 dealing with the administration of justice problems of

battered women and the Federal response to those problems. A statement on religious discrimination, a followup to our consultation on that subject, is nearing completion and will be issued in fiscal year 1982. A Euro-ethnic employment discrimination study is underway. In fiscal year 1983 the social indicators study will be updated to take into account 1980 census figures, and a baseline for Euro-ethnic Americans will be established.

Work continued on a report on race and ethnic discrimination in Federal programs for older persons. An executive summary of part I of the report was released in time for dissemination at the White House Conference on Aging. In fiscal year 1982 work will begin on a study dealing with handicapped persons focusing on the requirement that recipients for Federal contracts and grants make "reasonable accommodations" to their needs in providing employment opportunities and services.

The other Commissioners and I believe that the work of this Commission continues to be important to the well being of our Nation both from the standpoint of identifying and fixing responsibility for the existence of problems in the area of civil rights and also from the standpoint of identifying and documenting the progress that has been made and the reasons for that progress since *Brown* v. *Board of Education.*

Of course, I will be very happen to answer any questions you may have, Senator Weicker.

JUSTICE DEPARTMENT'S STANCE ON CIVIL RIGHTS ENFORCEMENT

Senator WEICKER. Thank you very much, Dr. Flemming. There is considerable discussion of possible changes in executive branch reliance on traditional civil rights enforcement measures. Recently, the Leadership Conference on Civil Rights produced a report citing the Justice Department for dereliction of civil rights enforcement. Attorney General Smith stated before this committee a week or so ago that this report was fallacious.

I would like to have your view on the Department of Justice's current stance on civil rights enforcement.

Mr. FLEMMING. I had the opportunity of appearing before the House Subcommittee on Civil and Constitutional Rights chaired by Congressman Don Edwards. At that time he was considering the report that was prepared by the Leadership Conference, and he also asked for testimony from us on our views relative to the work of the Department of Justice in the area of civil rights.

First of all, I think that the report prepared by the Leadership Conference on Civil Rights is an excellent report. I have had the opportunity of reading it. I have had the opportunity of discussing it with the person who chaired the lawyers committee who prepared it, namely, Bill Taylor, a former staff director of the Civil Rights Commission.

Like the Leadership Conference on Civil Rights, we have been deeply concerned about positions taken by the Department of Justice in connection with the enforcement of civil rights laws and court decisions.

The fact of the matter is we feel that the position that they have taken illustrates the fact that we are at a very serious and a very important crossroads in the area of civil rights. We are operating under good civil rights laws. Some of them obviously could be improved. We are operating under good court decisions. It is clear, however, that the strategy of the regressive movement in the civil rights area is to do everything they can to weaken or eliminate the methods that you have to employ in order to implement those laws and those court decisions.

BUSING

We have been very much concerned about the position taken by the Department of Justice on busing, so-called. Of course, actually, it is a position not on busing; it is a position on segregation. Busing is not the issue. The issue is segregation versus desegregation and where people stand on that particular issue.

AFFIRMATIVE ACTION

We have been very much concerned about the decision on the part of the Department of Justice to look for the opportunity to initiate a court action designed to persuade the Supreme Court to reverse its decision in the *Weber* case. That is a landmark decision in the area of equal employment. It points the Nation in the right direction.

It is certainly very discouraging, to us, to think that the Department of Justice would try to initiate a proceeding designed to pull the rug out from under the tool of affirmative action, when it has been demonstrated by both public and private administrators that if you are going to make any progress at all in the area of equal employment, you have got to develop and implement affirmative action plans.

TAX EXEMPTION FOR PRIVATE SCHOOLS

Of course, we were very much disturbed and discouraged by the position that Justice took on the tax exemption of private schools. As you probably will recall, we were in the middle of that controversy from another point of view a couple of years ago when at long last, the Commissioner of Internal Revenue issued some proposed guidelines to step up the enforcement of the policy denying tax exemption to private schools that practice discrimination.

The Commissioner was flooded with protests. Many of them came up here to the Hill. That resulted in an appropriation rider being attached to the Treasury Department bill saying to Treasury, "You can't spend any money on implementing those new guidelines." In other words, you can't spend any money on enforcing the policy that had been developed back in 1970 and implemented by the courts.

Those are three of the illustrations that are in the Leadership Conference on Civil Rights report. We are just as concerned as the Leadership Conference on Civil Rights.

REQUEST TO OMB

Senator WEICKER. The proposed fiscal year 1983 budget for the Commission represents a net decrease of $692,000, from $12,318,000 to $11,626,000. Did the Commission recommend this figure to the Office of Management and Budget, and will the proposed budget allow the Commission to fulfill its mandated responsibilities?

Mr. FLEMMING. The Commission recommended to the Office of Management and Budget a figure of $12,994,000. As a result of the mark that we received, we have had to make adjustments in our program.

If the Commission were permitted to continue to operate at the 1982 level, which would be about $12,729,000, it would mean that we would be in a position where we could operate 10, not 8, regional offices. The cutback in the judgment of the Commission, in all probability, will require the closure of two regional offices. So we would have 8, not 10.

If we were permitted to operate at the 1982 level, it would also mean that State advisory committee activities which are the eyes and ears of the Commission at the grassroots level—could move forward at approximately the present level. State advisory committee reports would continue to be distributed widely, not only within their States, but to other States that are dealing with similar problems.

Also, if the Commission were able to operate at the 1982 level, it would be able to maintain its monitoring activities at the present level, which, frankly, I think, is a minimum level in light of the issues that confront both the executive and legislative branches and the country in the field of civil rights. It seems to me that the monitoring activities of the Commission are very important when we confront a crisis of this kind.

Also, the Commission would be able to move forward with its plans for holding a consultation on immigration and changing demography. It would be able to conduct a study of alternatives to layoffs in a selected industry. It would be able to prepare a report on the impact of school desegregation on language minority students.

In addition to that, it would not have to curtail as drastically as it would have to under the present budget request its liaison activites. By that I mean it would not have to curtail its work with groups throughout the country whom, in my judgment, can profit from the kind of ammunition that the Commission reports and studies can provide them as they try to mobilize the grassroots.

Also, it would be possible for the Commission to conduct an additional public hearing. On the basis of my 8 years with the Commission, one of the most valuable tools that the Commission has is the ability to hold public hearings and subpena witnesses and put them under oath.

Senator WEICKER. Thank you very much.

Senator Rudman?

Senator RUDMAN. Thank you. I have no questions, Mr. Chairman.

NEW COMMISSION CHAIRMAN

Senator WEICKER. Good luck. What is the time schedule here as far as you are concerned? Has a successor been chosen?

Mr. FLEMMING. Yes; a successor has been chosen and nominated by the President to the Senate, Mr. Clarence Pendelton of San Diego. A hearing has been held on his nomination. The matter is pending before the Judiciary Committee. There has not been a report to the full Senate from the Judiciary Committee at this time.

I have been asked to serve until he qualifies, until he is confirmed. That I am continuing to do and will continue to do.

Senator WEICKER. As I said, No. 1, you might be in this position for longer than you think you will be, which would be all to the good as far as I am concerned; and No. 2, I would hope that regardless of what your official position is, I can look to you and this committee can look to you for continuing guidance because believe me, you have had to do service and a variety of services since, I guess, President Eisenhower.

Mr. FLEMMING. Since 1939.

Senator WEICKER. That goes back a ways, it really does.

I just cannot conceive of the Nation without your services.

ADDITIONAL COMMITTEE QUESTIONS

Senator Hollings has submitted some questions for you to answer for the record.

[The following questions were not asked at the hearing but were submitted to the Commission for response subsequent to the hearing:]

Questions Submitted by Senator Ernest F. Hollings

The 1983 Budget provides for a reduction of 33 positions and $692,000 from the 1982 levels. On p. 11 of the justification, some of the curtailments required are outlined but not in much detail.

1. Instead of 9 long-term reports, the Commission will only be able to do 5. How vital are these reports?

Reducing the number of reports will mean less basic information in the area of civil rights will be available to the President, the Congress, and the public to use in making policy decisions. However, facing the reality that we would have to operate with less money and staff in Fiscal Year 1983 the Commission decided that it would be more productive to conduct fewer long term studies and instead concentrate our energies on monitoring and evaluating civil rights enforcement policies and effects of the Federal and state governments.

2. How often has the Commission testified before Congress? Please supply a listing of all testimony during 1981 indicating the Committee you testified before and the subject matter.

Other than giving testimony on its own authorizations and appropriations, the Commission testified before the following committees in Fiscal Year 1981:

November 19, 1980 - Equal Employment Opportunity in Federal Courts (House Judiciary Subcommittee on Civil and Constitutional Rights)

March 19, 1981 - Role of the Federal Bureau of Investigation on Indian Reservations (House Judiciary Subcommittee on Civil and Constitutional Rights)

June 3, 1981 - Resurgence of Racial Violence in the United States (House Judiciary Subcommittee on Criminal Justice)

June 16, 1981 - Voting Rights Act Extension (House Judiciary Subcommittee on Civil and Constitutional Rights)

June 25, 1981 - Administration's Proposed Budget Impact on Civil Rights Enforcement (House Judiciary Subcommittee on Civil and Constitutional Rights)

July 15, 1981 - Oversight Hearing on Affirmative Action (House Education and Labor Subcommittee on Employment Opportunities)

September 21, 1981 - School Desegregation (House Judiciary Subcommittee on Civil and Constitutional Rights)

3. What specific changes in laws, regulations, and enforcement programs have resulted from recent Commission studies and reports?

It is difficult to establish a direct connection between specific recommendations and the results of complex political decision-making processes. Often other events transpire which, when combined with Commission recommendations, causes changes to happen. An example of this is a staff paper on civil rights issues in the Combined Federal Campaign (CFC) which concluded that the Office of Personnel Management (OPM) appeared to have applied CFC admission criteria to the detriment of voluntary nonprofit agencies serving minorities and women. One month subsequent to OPM's review of

this paper, an expanded number of organizations serving women and minorities were admitted to the 1981 CFC. Earlier decisions by two Federal courts on the same question probably influenced OPM's decision as well.

Because recommendations addressed to Federal, State, and local governments often require considerable deliberation, actions are not always taken immediately. The processes of legislating and making administrative changes can last several years. For example, in Social Indicators of Equality for Minorities and Women (1979), the Commission recommended that the Office of Federal Statistical Policy and Standards be moved to the Office of Management and Budget (where it had been located a few years before), and the transfer occurred in 1981.

Given these qualifications, the following examples of recent Commission recommendations and subsequent results provide some indication of the use and effectiveness of Commission work:

- Enforcing Title IX (1980) offered numerous recommendations for improvement in the Department of Health, Education, and Welfare's (now Department of Education) enforcement of that statute. Consistent with Commission recommendations, the Office for Civil Rights (OCR) at the department developed a compliance review schedule based on more realistic estimates of staff productivity, automated a system for monitoring cases at headquarters, and initiated staff training in use of this system and in conducting Title IX inter-collegiate athletics compliance. OCR also allocated funds for Title IX technical assistance, issued a digest of policy-relevant case memoranda, and began compiling a comprehensive policy reference manual.

- Equal Opportunity in the Foreign Service (1981) recommended steps the State Department and other foreign affairs agencies should take to increase representation of minorities and women in the Foreign Service. The Department responded by committing itself to continued strong affirmative efforts toward this goal and by noting plans to implement each of the Commission's recommendations, among which were greater efforts to increase minority and female representation in top Foreign Service positions and the undertaking of a new study of barriers to hiring, retention, and advancement of minority and women officers.

- The Voting Rights Act: Unfulfilled Goals (1981) urged Congress to extend the Act for 10 years and to prohibit States and political subdivisions from maintaining or establishing voting practices which have the effect of discriminating against individuals on the basis of their race, color, or language. The Commission was invited to testify before Congressional committees on the report. The report and supplementing testimony before the House of Representatives documented continuing violations of minority Americans' voting rights which necessitate the Act's extension. Numerous citations of the report appeared in the Judiciary Committee's September 15, 1981 report on extending this law. The version of the extension bill passed by the House contained both a return to an "effects" test in litigating violations of the Act and a bailout provision consonant with the Commission's recommendations.

- Who is Guarding the Guardians? (1981), a report on police practices was issued in 1981. The report is currently being used as a training document by the Federal Bureau of Investigation and the Omaha Police Department and has formed the basis for model reforms suggested by the Police Foundation and a committee of mayors and police chiefs of large cities.

- Civil Rights: A National Not a Special Interest, (1981) a report assessing the impact of the administration's actual and

proposed budget cuts, was cited frequently in a report of a House Subcommittee of the Committee on Education and Labor.

- Affirmative Action in the 1980s: Dismantling the Process of Discrimination (1981) has been cited in Report on Affirmative Action and the Federal Enforcement of Equal Opportunity Laws by the Subcommittee on Employment Opportunity of the House Committee on Education and Labor, February 1982.

- Under the Rule of Thumb, (1982) a report on battered women and the administration of justice issued in 1982 is being used by the Federal Bureau of Investigation at its training academy in Quantico, Virginia and by contractors hired to train Philadelphia police officers on domestic violence intervention.

- In 1980, the Commission wrote to the Office of Management and Budget and the Department of Justice to support proposed Executive Order 12250, "Leadership and Coordination of Nondiscrimination Law," vesting in the Attorney General authority for coordinating enforcement of Title VI of the Civil Rights Act of 1964, Title IX of the Elementary and Secondary Education Act of 1973, and other program-specific nondiscrimination provisions. The Commission recommended revisions to avoid shifting responsibility for developing enforcement programs from the agencies administering Federal financial assistance to the Attorney General and to clarify the Attorney General's coordination responsibilities. The final executive order included the recommended clarifications. The Department of Justice issued a guideline in 1981 for Federal agency implementation of E.O. 12250, incorporating Commission suggestions regarding consistency of reporting terminology and coverage of employment practices under the above-mentioned laws.

- The Commission also wrote the Department of Education's Assistant Secretary for Civil Rights in 1980 regarding the need for policy clarifying coverage of sexual harassment under Title IX and for technical assistance in combating sexual harassment of students. In 1981, OCR issued a memorandum clarifying its Title IX jurisdiction in sexual harassment cases and funded technical assistance to prevent and resolve such cases.

- In 1981, the Commission wrote to the Attorney General recommending against approval of a proposal to narrow Title IX employment requirements. The Attorney General did not approve the proposal. As the Commission also recommended, the Department of Justice continued defending full Title IX employment coverage in the Supreme Court.

The Commission has made many other recommendations of a technical nature for bettering civil rights enforcement and other areas. The Department of Education's OCR adopted in 1981 some 1980 Commission recommendations for improving its annual enforcement activity plans. Consistent with Commission suggestions, OMB staff improved data collection procedures for the Special Civil Rights Analysis of the Federal budget.

The Commission's State Advisory Committees have also issued many reports that have resulted in changes at the local level. Among recent examples are the following:

- ALASKA. Released a report, Changing Commitment into Action--Employment of Women and Minorities in Alaska State Government (1980). As a result, the Governor asked all State departments to report progress made towards implementing the recommendations. A Senate resolution, a Senate bill, and four House bills addressing affirmative action were passed during the 1981 session.

- KANSAS. Released a report, Police-Community Relations in the City of Wichita and Sedgewick County (1980). New complaint procedures were introduced by the Wichita police department in 1981 following the publication of this report.

- LOUISIANA. Released a report, Community Development Block Grant Programs in Louisiana (1981), which led to an increase of citizen participation in the block grant programs in the report.

- NEVADA. Released a report, Unmet Goals: Affirmative Action in Employment at the University of Nevada, Las Vegas (1981). The report presented the results of a study of the utilization of minorities and women in professional job categories and led the University to intensify its program for eliminating the demonstrated under-utilization.

- NEW JERSEY. Released a report, Battered Women in New Jersey (1981). Since the release, the State Department of Human Services has changed its public assistance regulations to include battering as a criteria for receiving emergency financial assistance.

- OHIO. Released a report, Policing in Cincinnati, Ohio: Official Policy vs. Civilian Reality (1981). The Cincinnati City Council and other city agencies responded with commitments to improve police-community relations.

- OKLAHOMA. Released a report, Affirmative Action in Oklahoma (1981). As a result, several State agencies have revised their affirmative action plans and the Governor has strengthened his executive level affirmative action progress.

- SOUTH DAKOTA. Released a report, Native American Participation in South Dakota's Political System (1981). The South Dakota legislature passed a bill supporting voting districts in the State consistent with the report's recommendations.

- TENNESSEE. Released a report, Civic Crisis--Civic Challenge: Police-Community Relations in Memphis (1978). In 1980, the Memphis policy department adopted psychological evaluations for officers and referral of officers having job difficulties as the Advisory Committee had suggested.

4. What kinds of mechanisms does the Commission have to follow up on its recommendations?

The U. S. Commission on Civil Rights regularly monitors programs that have been the subject of the Commission's recommendations. Other follow-up activities consist of frequent contact with affected Federal, State, and local government agencies. In addition, in 1980, the Commission began developing a systematic program evaluation process aimed at assessing the use and effectiveness of its reports and recommendations. This effort is still in its initial stages and is limited by the fact that the Commission has been unable to identify appropriate precedents for such an effort by either Federal or private agencies engaged in policy research. The Commission has found, in fact, that a number of groups inside and outside the government are looking to the Commission for leadership in this field.

The program evaluation process presently being developed by the Commission will provide an extensive and systematic assessment of the use and effectiveness of reports and recommendations, as well as greater documentation. As the evaluation process develops, it will also include impact evaluation of the Commission's numerous State Advisory Committee reports, examples of which have been included here. Thus, this initial evaluation effort will focus on three of the Commission's recent reports: Indian Tribes -

A Continuing Quest for Survival; The Voting Rights Act: Unfulfilled Goals; and Affirmative Action: Dismantling the Process of Discrimination. Questionnaires and supporting documentation are currently being reviewed by the Office of Management and Budget.

5. How vital are the State Advisory Committees to your overall effort?

The State Advisory Committees are very vital to our overall efforts. Congress in extending the life of the Commission for an additional 5 years beyond 1978 recognized the importance of the SAC's by making it mandatory that the Commission have State Advisory Committees functioning in every state and the District of Columbia.

We look upon the State Advisory Committees which are composed of citizens serving without compensation, representing both political parties, composed of members of a variety of racial, ethnic and religious groups and various professions, as the eyes and ears of the Commission. They bring to our attention emerging civil rights problems and issues and they advise us as to how the policies of the Federal Government affect civil rights on the grass roots level.

6. Where are your 10 regional offices located and which 2 will be closed in 1983?

Our ten regional offices are located in Boston, Massachusetts; New York, New York; Washington, D. C.; Atlanta, Georgia; Chicago, Illinois; Kansas City, Missouri; Denver, Colorado; San Antonio, Texas; Los Angeles, California; and Seattle, Washington. The Commissioners have not yet decided which two regional offices will be closed. That decision will be made later this fiscal year based on program projections.

7. Considering that State Advisory Committee and field operations activities will be substantially reduced and that SAC studies will no longer be widely distributed and national studies requiring SAC participation will be curtailed, how will the Commission be able to accomplish its goal of keeping the President, the Congress, and the public informed about civil rights developments?

We will still operate 51 State Advisory Committees in each state and the District of Columbia as required by law. State Advisory Committee reports, however, will be transmitted to the Commissioners and only a limited number of off-set copies will be distributed to groups affected or to agencies to which the recommendations are directed. We will, on a reduced level, fulfill our legislative mandate to keep the President, the Congress and the public informed on civil rights developments.

8. What were the conclusions of your report on the impact of the budget cuts on Federal civil rights enforcement activities?

Pursuant to our Federal oversight responsibilities, the Commission, in its report entitled Civil Rights: A National, Not a Special Interest, examined proposed cuts in Federal civil rights enforcement efforts, reductions in, or elimination of, several programs essential to fulfilling the promise of equality embodied in the Constitution, and the expansion of the block grant approach for the allocation of Federal funds to the States. We analyzed the proposed budget actions both individually and collectively to determine their impact on our system of national values as expressed in the 13th, 14th and 15th amendments to the Constitution.

As we stated in the report, those "Civil War Amendments" and the constitutional promise of equality embodied within them form the backdrop against which the budget revisions must be viewed. In assessing the budget cuts, a fundamental question was whether the achievement of that constitutional promise would be facilitated or hampered by the proposed budget revisions.

It was our conclusion that the proposed FY 1982 budget cuts would jeopardize recent efforts to improve civil rights enforcement activity. The revisions threatened to result in a significant decrease in Federal civil rights enforcement efforts that could have long-term consequences for the ability of the Nation to implement its constitutional commitment to equal opportunity. As our review indicated, reductions in the resources to Federal civil rights enforcement agencies would likely limit actual enforcement, undercut the deterrent effect of such enforcement by diminishing the credibility of potential Federal action, and reduce the motivation for and assistance to those who would undertake self-improvement and voluntary compliance with civil rights obligations.

In addition, Civil Rights: A National, Not a Special Interest, pointed out that the proposed budget revisions would reduce or eliminate programs, such as the ten programs in the areas of legal services, education, economic development and assistance, housing, and health services that have contributed to the process of breaking down the barriers of past discrimination and its current vestiges. The budget actions would have a damaging effect on the progress the programs have made toward fulfilling the constitutional promise of equlity, an obligation imposed upon the Federal Government by the 13th, 14th, and 15th amendments.

The Commission also examined the proposed replacement of categorical grant funding with block grant funding. We stated that such a change in the Federal funding format would jeopardize Federal civil rights enforcement. As we noted in the budget impact statement, the available data and studies suggest that block grant programs are subject to serious abuse on the State and local level and indicative of the continued need for targeting Federal financial assistance to State and local governments, the continued need for Federal regulation of the expenditure of Federal funds, and the continued need for Federal civil rights enforcement with regard to the disposition of Federal monies to ensure that such monies are not used in a discriminatory manner.

In summary, our report concluded that reducing allocations for specific civil rights enforcement activities would mean that millions of Americans would continue to be victims of discrimination in education, employment, housing, and Government services. Cutting programs designed to overcome the effects of past discrimination would delay achievement of equality. Converting categorical programs to block grants, without providing effective enforcement mechanisms both for Title VI enforcement and for meeting on a national basis the needs of specific populations, would jeopardize fundamental Federal guarantees.

9. How different are the views of the Commission from the recommendation of the Select Commission on Immigration and Refugee Policy?

The attached memorandum prepared by our Office of General Counsel analyzes the points of agreement and disagreement between the recommendations of the Select Commission on Immigration and Refugee Policy and the September 1980 recommendations of our National Immigration report, The Tarnished Golden Door: Civil Rights Issues in Immigration.

10. How much has been invested in the Euro-Ethnic Employment Discrimination Study; and is it far enough along to determine the worthwhileness of this effort?

Phase I of the study is underway by a contract amounting to $26,359. This phase includes preparation of a literature review of Euro-Ethnic employment characteristics as well as a plan for independent analysis of 1980 Census data on Euro-Ethnics. The analysis will compare Euro-Ethnics to white Anglo men in order to permit determination of the extent to which Euro-Ethnic men may experience employment discrimination. Based on the planned analytic approach regarding the Census the Commission will be able to determine the feasibility and worthwhileness of the effort.

March 9, 1981

OGC

The Tarnished Golden Door and the Select Commission report, U.S. Immigration Policy and the National Interest

Louis Nunez
Staff Director

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On February 27, 1981, the Select Commission on Immigration and Refugee Policy (hereafter referred to as SCIRP) submitted its final report, U.S. Immigration Policy and the National Interest, to the Congress. That 453-page report contained 87 recommendations for revising current immigration law, practice, and procedure. Many of those recommendations involved issues addressed by the Commission in our recent national immigration report, The Tarnished Golden Door.

Among the major recommendations of the Commission that the SCIRP agreed with are: the establishment of a separate immigration court system, the separation of INS service and enforcement functions, the elimination of colonial quotas, the prohibition of local police enforcement of the immigration laws, and the revision of the immigration laws to reflect a standard for INS temporary detentions and searches that is consistent with the prescriptions of the Fourth Amendment. The major Commission recommendations that the SCIRP did not adopt included: the establishment of a Border Management Agency, the creation of a Board of Visa Appeals, the expansion of the right to counsel, the complete elimination of the per-country limitations, and our recommendation opposing the enactment of an employer sanctions law.

The following brief review of the SCIRP report will outline the points of agreement and disagreement between the two immigration reports.

SCIRP Section I: International Issues

The reports of the SCIRP and the Commission are in agreement as to the need for international negotiations and cooperation on migration matters. SCIRP recommendations, however, contain more specific steps for achieving that international

cooperation than does USCCR Recommendation 5.3. Not only does the SCIRP recommend bilateral and regional consultations on the related issues of trade, aid, investment, development, and migration, but it also recommends that the United States:

> 1) continue to work with other nations and international organizations, including the exchange of migration information and data, to develop a better understanding of migration issues that will allow countries to make informed policy decisions in the area of international migration and refugee issues;
>
> 2) seek revitalization of international organizations (such as the United Nations High Commission for Refugees and the Intergovernmental Committee on Migration) to respond more effectively to international migration and refugee situations; and
>
> 3) seek regional cooperation for the protection of the human and labor rights of nationals residing in each other's countries, for exploring a possible regional convention on mass asylum or forced migration, and for a regional authority, working with the UN High Commission and ICOM, to assist in resettling refugees and asylees throughout the region rather than solely or primarily in countries closest to the nation from which they are fleeing or forced to leave.

SCIRP Section II: Undocumented Aliens

The SCIRP report is in substantial agreement with most of the recommendations of The Tarnished Golden Door in this area. Both reports agree (1) that there should be increased appropriations for additional personnel and more up-to-date technology to improve the enforcement of federal immigration laws [USCCR Recommendation 5.2 and SCIRP Recommendations II(A)(1)-(2)]; (2) that there should be more vigorous enforcement of the Fair Labor Standards Act and other labor laws [USCCR 5.1 and SCIRP II(B)(2)]; (3) that the interior enforcement of the immigration laws should be carried out in a nondiscriminatory fashion [USCCR 6.2 and SCIRP II(A)(8)]; and (4) that INS officers should receive improved training on the rights of citizens and aliens and on human relations to lessen the possibility of abuse in the enforcement of the immigration laws, particularly in contacts with persons of other cultural backgrounds [USCCR 3.2(b) and SCIRP II(A)(8)].

In addition to those areas of express agreement, a number of SCIRP recommendations involving specific enforcement programs are consonant with Commission recommendations. For example, the SCIRP recommendations for the enforcement of the anti-smuggling provisions of the immigration laws [SCIRP II(A)(4)], for the continuation of investigations of nonimmigrant visa abuse [SCIRP II(A)(5)], and for deportation of persons who have been found to be deportable and ineligible for discretionary relief [SCIRP II(A)(7)], though not discussed in The Tarnished Golden Door, are consistent with our support for improved immigration law enforcement. Similarly, the SCIRP recommendation for an automated system of nonimmigrant visa document control [SCIRP II(A)(6)] is consistent with our

recommendation for the computerization of INS records and files [USCCR 3.3(b)].

There were, however, two major areas of disagreement between the SCIRP report and our report. One of those areas was whether a Border Management Agency should be established [USCCR 3.6(a)]. As you will recall, our report made that recommendation, based on an analysis of the President's Reorganization Project of the Office of Management and Budget, in order to separate the conflicting missions of service and enforcement within the INS (also recognizing that it would have the salutary effect of better coordination of and less duplication in the border enforcement roles of the INS, the U.S. Customs Service, the Drug Enforcement Agency, the Department of Agriculture, and the Public Health Service). The SCIRP report recommended only the creation of "regional border enforcement posts" [SCIRP II(A)(3)]. It favored that approach based on its assessment that such coordination would improve the detection of undocumented workers (as well as contraband) "without disrupting the existing mandates of the agencies involved" [SCIRP Rpt., p. 51].

The other major area of disagreement was over the issue of employer sanctions and worker identification systems. Initially, the SCIRP report, noted that "[a]lthough there tends to be some consensus among researchers on some general characteristics of undocumented/illegal aliens, there is almost no consensus regarding the impact of illegal immigration on U.S. society" [SCIRP Rpt., p. 37]. But after a very brief discussion of the two distinct views on the impact of undocumented workers, they concluded that "although the effect of undocumented/illegal immigration on the U.S. labor force is not quantifiable, it is apparent that the continuing flow of undocumented workers across U.S. borders has certainly contributed to the displacement of some U.S. workers and the depression of some U.S. wages" [SCIRP Rpt., p. 41 (emphasis supplied)]. Based on that conclusion, it recommended the enactment of an employer sanctions law accompanied by some system of employment eligibility identification. There were two votes on the manner in which to verify employment eligibility, neither of which addressed the issue of whether a national identity card system should be adopted. The first vote of 9 to 7 favored the use of existing identification documents for making determinations of employment eligibility. The second vote favored the use of a more secure form of identification by a narrow margin of 8 to 7 (with one pass). There was no consensus, however, on "the specific type of identification that should be required for verification" [SCIRP Rpt., p. 68].

In the final part of this section, the SCIRP report discusses an area which our report did not examine (because the issue did not raise a civil rights issue unless it was to be administered in a discriminatory fashion): a legalization program to adjust the status of undocumented workers who entered or were in the United States in an unlawful status prior to January 1, 1980 [SCIRP II(C) and SCIRP Rpt., p. 76]. In adopting this recommendation, the SCIRP recognized that a massive deportation effort "would be destructive of U.S. liberties, costly, likely to be challenged in the courts and, in the end, ineffective" [SCIRP Rpt., p. 73]; it also recognized that the legalization of status would eliminate exploitation at the workplace (and thus any contribution that undocumented workers make toward the depression of U.S. labor standards and wages), that it would enable them to make greater contributions to American society, and that it would avoid unfair penalties on aliens and their families here in

the United States [SCIRP Rpt., p. 74]. Some of the specific points of the program are that it be instituted only after the program of enforcement recommendations has been adopted and placed into operation, that voluntary agencies be given a significant role in effectuating the program (thus encouraging more persons to participate in the program), and that persons who are ineligible for the legalization program be subject to voluntary departure, deportation, or other penalties under the Immigration and Nationality Act if they come to the attention of the INS [SCIRP II(C)(2)-(4)]. The major drawback to this series of recommendations is that the SCIRP failed to specify the residency requirement (the period of continuous residency, excluding short trips abroad, that an undocumented worker must meet in order to be eligible) and the grounds of excludability which would prevent an undocumented worker from being eligible to adjust his or her status under the program.

SCIRP Section III: The Admission of Immigrants

The SCIRP report adopted one part of the Commission's recommendations for revising the immigrant selection system. While it agreed that the quotas for colonies and dependent territories should be eliminated [SCIRP Rpt., p. 141 and USCCR Recommendation 2.1], it did not favor the complete elimination of the per country limitations [SCIRP III(C)(6), (D)(7)].

The remainder of this section proposed changes in the current immigrant selection system as to the annual worldwide ceiling, the admissions categories, the exempt categories, and the existing backlog of visa applications. The SCIRP report recommended raising the annual worldwide ceiling from 270,000 visas annually to 350,000, with another 100,000 visas for each of the first five years under its proposed system to eliminate the current backlog of visa applications.

Under its revised immigrant admissions system, the SCIRP would substitute a two-category system for the current six preference system [SCIRP III(B)(1)], based on its assessment that the current system "mixing ... family and independent worker (nonfamily) groups, combined with other provisions of the law, has resulted in widespread inequities and confusion concerning the two main goals of immigration--family reunification and bringing in persons with needed skills" [SCIRP Rpt., p. 111]. The two categories in the SCIRP system would be "family reunification" and "independent immigration." Within these two admissions categories are three subgroups of eligible persons that would be either (1) exempt from the annual worldwide ceiling, (2) subject to an annual numerical limitation without per-country limitations, or (3) subject to annual numerical and per-country limitations.

Persons exempt from the annual worldwide ceiling in the family reunification category would be the following immediate relatives of adult United States citizens: spouses, unmarried sons and daughters, parents, and grandparents [SCIRP III(C)(1)]. This expands the current exempt immediate relative group by adding the adult unmarried children and the grandparents of adult American citizens, and it eliminates the current first preference. Under the independent immigration category, the SCIRP recommends the retention of existing exempt special immigrant groups such as former employees of the U.S. government abroad, persons who lost their U.S. citizenship, and ministers of religion needed by their denominations in this country [SCIRP III(D)(1)]. No recommendations were made for expanding this exempt group.

The SCIRP recommended that three groups be subject to numerical limitations without per-country limitations under the annual worldwide ceiling. In the family reunification category, a substantial number of visas would be available for the admission of spouses and minor unmarried children of permanent resident aliens on a first-come, first-served basis [SCIRP III(C)(2)]. This would replace the current second preference category. Under the independent immigration category, a small number of visas would be available annually to both "immigrants of exceptional merit" and to "investors" (who invest more than the current minimum of $40,000) [SCIRP III(D)(2)-(3)]. The immigrant of exceptional merit would replace only part of the current third preference, for the SCIRP defined "exceptional" as "qualified immigrants ... renowned in their fields ... [who] would contribute significantly to the national interest if they immigrate to the United States" [SCIRP Rpt., p. 130]; professionals of merit (e.g., doctors, nurses, and engineers) would be admitted under the "other qualified immigrants" subcategory. Investors currently coming into this country immigrate under the nonpreference category, when visas are available.

Under the SCIRP system, five categories of visa applicants would be subject to both numerical and per-country limitations. In the family reunification category, those persons would include: the adult unmarried sons and daughters of permanent resident aliens, married sons and daughters of American citizens, brothers and sisters of adult U.S. citizens, and elderly parents of permanent resident aliens none of whose children live outside the United States [SCIRP III(C)(2)-(5)]. This would replace the current second, fourth, and fifth preference categories, and also add the new group of elderly parents of permanent resident aliens. In the independent immigrant category, the SCIRP created the new subcategory of "other qualified immigrants" to provide for the admission of professionals of merit who do not fall within the "exceptional" group and other visa applicants without U.S. family ties, if they satisfy specific labor-market criteria [SCIRP III(D)(2), (5)-(6)]. This subcategory would replace the current third, sixth, and nonpreference categories.

As part of its proposal for establishing this new system, the SCIRP report recommends numerical limitations [SCIRP III(C)(2)- (5), (D)(2)-(3)] and per-country limitations [SCIRP III(C)(6), (D)(7)] for certain subcategories as noted above. Although it recommends that the per-country limitation should be a fixed percentage within the numerical limitation of certain subcategories, the report does not suggest the specific number of visas which should be available in any of the subcategories. Nor does the report lay out the specific labor-market criteria for "other qualified immigrants" in the independent immigration category [SCIRP III(D)(6)].

Its final recommendation in this section is for the establishment of a review mechanism for assessing current domestic and international situations as they relate to our immigration policy. The recommendation calls for the preparation of an annual report by House and Senate immigration subcommittees, in consultation with the Departments of State, Justice and Labor, in order to "provide [a] sufficient basis for on-going review of U.S. immigration policy" [SCIRP III(E)(1) and SCIRP Rpt., p. 143].

SCIRP Section IV: Phasing in SCIRP-Recommended Programs

The SCIRP recommends that the first programs to be initiated should be of the new admission systems (with the five-year program for clearing existing backlogs) and the new enforcement program. Only after both programs have been established should the legalization program be initiated.

SCIRP Section VII: Administrative Issues

The SCIRP and Commission reports agreed on a number of recommendations in this area. Two major areas of basic agreement were the establishment of a separate immigration court [USCCR 7.3(a) annd SCIRP VII(C)(1)] and the prohibition of local law enforcement of the immigration laws (although the SCIRP report recommends that local police officers should be encouraged to notify the INS as to persons arrested for nonimmigration violations whom they believe to be undocumented aliens) [USCCR 6.4 and SCIRP VII(F)]. Both reports also agreed that there should be "clear budgetary and organizational separation of service and enforcement functions" within the INS [USCCR 3.6(b) and SCIRP VII(B)(1)]; that the INS should upgrade employee training [USCCR 3.2(b) and SCIRP VII(B)(3)]; that the INS should attempt to employ more bilingual employees [USCCR 3.1(b) and SCIRP VII(B)(3)]; that the INS should sensitize its employees to the culture and background of persons with whom they come in contact [USCCR 3.2(b) and SCIRP VII(B)(3)]; that the INS should continue vigorous investigation and action with regard to serious allegations of INS employee misconduct, and that it should strengthen and improve that process [USCCR 8.1-8.8 and SCIRP VII(B)(3)]; and that the INS should make special efforts to hire more minority and women employees [USCCR 3.1(a) and SCIRP VII(B)(3)].

There was one major area of disagreement however. After examining the reviewability of consular visa decisions and the problems in that process, the Commission recommended the establishment of a Board of Visa Appeals to protect aggrieved parties from improper or erroneous exercises of consular discretionary authority [USCCR 4.2]. The SCIRP report, although noting that some of its members were "unconvinced that an informal review system will be sufficient to provide a consistently proper review of visa denials" [SCIRP Rpt., p. 255], recommended the retention of the present informal review system for consular visa decisions accompanied by better documentation of the reasons for visa denials and by increased reviews of field office operations and practices where there are frequent complaints or apparent departures of policy [SCIRP VII(E) and SCIRP Rpt., p. 255; see also USCCR 4.1].

In addition, the SCIRP report made three recommendations in areas not covered by our report. It recommended that the head of INS be upgraded to a Director at a level similar to that of a Director of other major Department of Justice agencies and that he report to the Attorney General (rather than to the Associate Attorney General) on policy matters [SCIRP VII(B)(2)]; that, in order to expedite the process, naturalization should become an administrative process within the INS unless judicial naturalization is requested and practical [SCIRP VII(D)]; and that the INS establish a code of ethics and behavior for all of its employees [SCIRP VII(B)(3)].

SCIRP Section VIII: Legal Issues

This section of the SCIRP report and The Tarnished Golden Door agreed on the appropriate constitutional standard under which INS officers may effectuate a temporary detention, arrest, or search of a person believed to be an alien present unlawfully in this country [USCCR 6.2-6.3 and SCIRP VIII(A)(1)-(3)]. Our report, however, disagreed with the SCIRP recommendation that not only immigration judges, but also various INS officials, including the Assistant District Director for Investigations (who prepares and files charges in the INS case for deportation of apprehended or detained persons), should be empowered to issue arrest warrants or conduct probable cause hearings; the recommendation of our report was to require such assesments by a neutral judicial officer as the Supreme Court has stated in numerous nonimmigration cases [USCCR 7.4 and SCIRP VIII(A)(2)].

Beyond the Fourth Amendment issues, the reports discussed only one other common topic, the right to counsel. As you will recall, our report recommended that the right to counsel should be available at the earliest possible stage of the proceedings rather than merely at the exclusion or deportation hearing [USCCR 7.1]. The SCIRP report did not favor this broader availability of the right to counsel and retained the existing right to counsel provisions provided by statute and regulations [SCIRP VIII(B)(1)], although it did recommend that the right to counsel at government expense be provided to legal permanent resident aliens during deportation and exclusion hearings if they cannot afford legal counsel and no alternative sources of free legal counsel are available [SCIRP VIII(B)(2)].

In addition, the SCIRP report recommended in this section of its report that Congress reexamine the grounds of excludability under the Immigration and Nationality Act although it did not identify any specific grounds of exclusion that should be eliminated from the statute [SCIRP VIII(D)(1)]. It favored amending the suspension of deportation provisions of the immigration laws by changing "extreme hardship" to "hardship"; thus enabling some long-time resident aliens, though found guilty of a non-serious deportable offense, to obtain discretionary relief from deportation [SCIRP VIII(C)(1)]. The SCIRP also recommended that the reentry doctrine be modified so that lawful permanent residents can reenter the country without being subject to the exclusion provisions of the immigration laws (except for criminal convictions while abroad, political grounds, entry without inspection, and engaging in persecution) [SCIRP VIII(D)(2)].

Its most controversial recommendation in this section, however, is that INS officers should be penalized for obtaining evidence unlawfully, but the evidence so obtained should be admissible as evidence in deportation cases [SCIRP VIII(A)(4)]. Although this question was not addressed in our report, such a recommendation would seem to encourage violations of Fourth Amendment standards (particularly when the officer may only be subject to internal or departmental sanctions).

Other Sections of the SCIRP Report

Sections V, VI, IX, and X of the SCIRP report examined issues which were not a focus of The Tarnished Golden Door. Section V, though supporting the Refugee Act of

1980, recommended a number of steps to improve the existing programs and procedures for responding to refugee and mass first asylum situations. Section VI made recommendations in the area of nonimmigrant visa applications and other issues involving nonimmigrants.1/ Section IX recommended that the English language requirement for naturalization be modified so that elderly long-time permanent resident aliens may acquire American citizenship without reading, speaking, and writing English. Section X recommended that federal law permit, but not require, the special treatment of U.S. territories under the Immigration and Nationality Act.

DONALD CHOU
Attorney-Advisor

1/ Included in this section is a recommendation responding to the recent events involving Iranian student demonstrations in this country. SCIRP recommendation VI(F) provides that the Attorney General should be granted statutory authority to deport nonimmigrant aliens who have been convicted of an offense subject to sentencing of six months or more. Under current law, the Attorney General has such authority only where the offense involves a sentence of one year or longer.

LEGAL SERVICES CORPORATION

STATEMENT OF DAN J. BRADLEY, PRESIDENT

BUDGET REQUEST

Senator WEICKER. Our next request is that of the Legal Services Corporation. The request of the Corporation is $265 million which involves an increase over the 1982 base. The President has recommended that the Corporation receive no appropriation for fiscal year 1983. The funding level requested by the Corporation would allow continuation of existing representation of the poor in civil matters by over 300 locally controlled programs.

Appearing on behalf of this request is Dan Bradley, President, Legal Services Corporation. As I understand it, you are stepping down on April 1; is that correct?

Mr. BRADLEY. Yes.

Senator WEICKER. First, I want to say that you have given outstanding leadership to the Corporation during good times and during tough times. The private mark of a man is when the going gets tough he is not there to be popular but to be out there in a cause. You have served well under all circumstances. I really wish you a great deal of success in what you do, whatever it is that you may do, in the future.

Let me also say to you that we will certainly make every attempt to make certain that there is a Legal Services Corporation. That probably means Bob Stafford and I will have to put our shoulders to the wheel again. But I think we can do that.

Senator RUDMAN. Mr. Chairman, I would simply like to associate myself with your remarks. I, of course, have a different respect for the Legal Services Corporation, having had problems from time to time as Attorney General of my State, but I know Dan Bradley has brought balance to the Legal Services Corporation and very effective leadership.

It has had my strong support, and I wish him well in what he is going to be doing.

Mr. BRADLEY. Thank you, Senator Rudman and Mr. Chairman. I feel that I really should start by offering an apology. If I can refresh your memories, about 1 year ago when I appeared before this committee, and especially when I met Senator Rudman for the first time in this very committee room, I stated to you at that time that was my last appearance as President of the Corporation because shortly we expected the President of the United States to appoint a new board. We expected that new board to name a new president, and I would fade into the wilderness. Unfortunately, it took longer than I had anticipated for the President to make his appointments.

STATUS OF CORPORATION BOARD OF DIRECTORS

I would like to bring you up to date on what has happened, though. As both of you gentlemen know, we have an 11-member board appointed by the President of the United States with the advice and the consent of Senator Hatch's committee on which you, Mr. Chairman, sit.

On New Year's Eve, President Reagan made some recess appointments. All 11 of the Carter appointed board members' terms had expired. Some of them had been holding over for nearly a year. Mr. Reagan completed his recess apointments to the board on January 22.

A couple of weeks ago, the President submitted to the Senate nine nominations for the new board. Those nominations are now pending confirmation before the Labor Committee.

Last week, Thursday and Friday, the Reagan board had their first organizational meeting. They took very little substantive action at that meeting other than to appoint an acting president, effective April 1. The person appointed to that post is a George Washington University law professor, Gerald Caplan. He will serve as the Acting President at least until the end of September.

The Presidential Search Committee is chaired by one of the new board members Mr. Howard Dana, from the State of Maine, whom I think is an excellent addition to our board. He will spend the greater part of the summer looking for a new President.

There is very little I can report to you at this moment as to what the new board will do. I am very, very impressed with all the new members of the board who I have met. It is clear the new board members will come to their tasks and their leadership responsibilities with some different ideas about the way and the method to deliver legal services.

I think I can assure the members of this committee that, in my opinion, each of those new members of the board appointed by President Reagan does, in fact, share my view and your view that the legal services program needs to continue, must continue.

There may be differences in how it should continue and in the way the funds are allocated, but fortunately, I don't think that you are going to have a board that comes before you asking you to abolish this Corporation and do away with civil legal services for the poor.

Senator WEICKER. I understand we have all the board members appointed; you are the acting president and you also have a search committee. These are all administration personnel?

Mr. BRADLEY. Yes, sir.

Senator WEICKER. But isn't that sort of at odds with no appropriation? I don't understand how they are supposed to work.

ROLE OF BOARD MEMBERS

Mr. BRADLEY. I don't understand that either, Mr. Chairman. Quite frankly, one of the board members at the meeting last Friday asked that rhetorical question of the first chairman of our board, Roger Cramton, former dean of Cornell Law School, who was appointed by then President Ford to the board and served for 3 years. When Dean Cramton addressed the new board he basically charged them with their

duty as lawyers and their duty to uphold the law as enacted by Congress. One of the first questions asked by one of the board members, a gentleman from Texas, was, "I am in a dilemma. I am here, sworn to and I pledged to uphold the law, and the law is now that the Legal Services Corporation continue. On the other hand, my President who appointed me has recommended to the Congress the total abolition of this program. What would you advise me to do?"

Mr. Cramton basically said, "Well, as far as I am concerned, your allegiance and your loyalty is to this program now that you are a member of this board, and as long as Congress decides that this is the law, that this program shall continue, then your loyalty is to this program."

That is, I think, a very, very appropriate question, Mr. Weicker. I know how I would choose to respond to the question. But I really think it is too early to know how that board, either individually or collectively, will act. One of the other questions that was asked at the meeting concerned the 1983 budget request. They know that our budget request for 1983 that is now before you in the committee was a budget request that was approved by the last board, by the Carter board. I shared with them the budget document that is before you today.

They have all had a chance to review that document. They have not made any decisions pertaining to that request and whether or not they will submit an amendment or a revision or supplementary request, I just don't know.

I suspect that they may not address that issue until their June board meeting.

Senator RUDMAN. I would like to just add on here, Mr. Chairman, that I am pretty familiar with some of the members of that board. In fact, Mr. Dana was one whom I personally recommended to the President, amongst many other people going on. I expect that what will happen, if my own guess is right, Mr. Chairman, is we will, in fact, continue to preserve Legal Services Corporation.

I think this board did a reasonably good job in what we wanted them to do. They might have different approaches, but certainly one could not say this is not a quality board. The board may have a different philosophy, but it is a fine board.

Senator WEICKER. I have no complaints with the board.

What I complain about is trying to send two different signals to the American people. I suppose under this theory you can say, "I am for Legal Services; I have appointed the members to the Legal Services Corporation."

And then you can send out another signal; you are going to be saying, "The board is abolished."

Senator RUDMAN. I think it is a good signal, Mr. Chairman. I think it is a signal that the board is not going to cease.

PRESIDENT'S BUDGET RECOMMENDATION

Senator WEICKER. I suppose what concerns me most is that the responsibility for putting this money in the budget becomes our responsibility to the extent we are expected to cut other programs to get it in

there. That is what is unfair in the preparation of the President's budget.

In other words, he can say, "Well, all right; these fellows in Congress, let them go ahead and find the money for it."

I am sorry. I think it is a totally irresponsible way to handle this matter, to stand up there and say, "abolish them. I am not going to appoint anybody. I am not going to ask for any more money."

As a member of the Appropriations Committee I ask for this money. You are going to have to make a decision. I am going to fight for it, but it should be in there on its own merits and not by virtue of cutting other programs which, believe me, also is a factor.

Mr. BRADLEY. I understand your dilemma, Mr. Chairman. As I leave this position, I can say candidly and frankly that I leave with the belief that not only do the majority of the citizens of this country support and believe in civil legal services for the poor, but I take great comfort in knowing that the majority in the U.S. Congress, both the House of Representatives in their repeated votes last year, and the Senate last year, supports the continuation of this program. I have every reason to believe that that support, regardless of the budget recommendations will continue.

PREPARED STATEMENT

What I would like to do, Mr. Chairman, before I attempt to respond to any of your questions, I would like to submit for the record the testimony I have filed with your staff. It is a very detailed statement in which I tried to summarize as best as I could the picture of Legal Services before last year, during the year of the 25-percent reduction, and what, in fact, is going on in Legal Services today.

If I could submit that for the record——

Senator WEICKER. Your statement will be included in its entirety at this time in the record.

[The statement follows:]

STATEMENT OF DAN J. BRADLEY

On behalf of the Legal Services Corporation, I wish to thank the Chairman and members of the subcommittee for the opportunity to appear before you today. This subcommittee has been especially interested in legal services since Congress created the Corporation in 1974. You have exercised authority and responsibility for the program in an extremely helpful manner. Millions of low-income persons and families across the country are indebted to you for your generous and strong support.

I. Introduction

Before I present the Budget Request of the Legal Services Corporation for the 1983 Fiscal Year, it might be useful to reflect for a moment on the year behind us. 1981 was a difficult year for federally-funded legal services for the poor. Every aspect of the program was reviewed, analyzed and debated, not only in the Congress, but also in the press, the legal profession, and the community at large.

It was a year of extreme and disruptive uncertainty -- when program administrators, lawyers, paralegals and clients wondered from day to day whether or not the program would continue, under what circumstances, forms or conditions; and at what level of public support. Finally, the House passed reauthorization legislation, after imposing numerous new restrictions, and reduced the appropriation for 1982 by 25 percent. The Senate has not completed its consideration of the reauthorization legislation, but has concurred in the continuation of funding, at the reduced level.

I can report to you today that the legal services program has survived the challenges of the past year, and remains sound. The scrutiny and debate the program underwent has revealed the true nature of legal services for the poor.

Detailed examination of the program by Congress shattered myth after myth about our work. It revealed not only the competent and dedicated service being provided to clients, but also the depth and breadth of the program's support throughout this country. Bar leaders, business leaders, newspapers, church groups, elected officials, civil and human rights leaders and countless others came forward to voice their support for federally-funded legal services for the poor. Congress voted overwhelmingly time and time again to continue its commitment to this vitally important part of our system of government. In a real sense, adversity was turned to advantage, and we find pride in the results.

But our pride is frankly mixed with deep concern because, in every part of the country, the problems of poor people are increasing in number and severity, and our capacity to help has been eroded. As you know, we provide support to legal services offices in every Congressional district in this country, to 1,187 offices in urban neighborhoods, on Indian reservations, in the hollows of Appalachia, in suburban communities, in small towns and rural centers. Legal services workers see millions of poor people for whom hope seems to have disappeared, just as jobs have vanished, and life sustaining benefits have been reduced. Our young attorneys and paralegals -- those remaining -- help as many as possible, provide as many answers and explanations as they can, but for far too many people in need, in desperate need, they have to say: no one has time to help you.

Everyone involved in legal services understood early in last year's legislative process that significant budget reductions were virtually inevitable. Even with stable funding, the impact of inflation would mean less real money to carry on current operations. The Corporation and individual legal services programs began planning early in the year to make adjustments, to choose from among essential activities those most important to provide the most and best service

possible for those clients who continued to desperately need our help.

As a result of this early, careful, and realistic planning, adjustments to reduced funding -- while painful -- have been made smoothly and compassionately. Fiscal year 1982 began -- not with the disruption and confusion that might be expected with the loss of 80 million dollars, but with a restructured and reduced program operating effectively to continue high quality legal assistance to the poor.

II. Current Status of the Program

A. The Corporation

Last December, the Board of Directors of the Legal Services Corporation made the difficult budgetary decisions necessitated by the 25 percent funding reduction imposed for FY 1982. It maintained its long standing policy of allocating maximum resources for the direct delivery of legal services to eligible clients, and consequently pared to the bone the staff and activities of the Corporation itself.

The Legal Services Corporation cut its staff by 45 percent to a level of 176 employees for the 1982 fiscal year. Our Reduction in Force meant that nearly 150 experienced and dedicated employees left the Corporation. Our RIFfed employees will not, however, show up in statistics on the number of federal employees laid off, because as you know our employees do not enjoy civil service protections. Nevertheless, we made every effort to reduce our workforce in a manner that was not only managerially sound, but personally compassionate as well. It was a painful but necessary process.

As a result of staff reductions, our administrative overhead is even more lean, and our support activities severely diminished. Our Research Institute has been eliminated, and for the first time since the inception of the program we are no longer funding any demonstration studies or program innovation projects through which we have pioneered new areas and learned

so much in the past. Training for legal services attorneys, paralegals and managers has been cut by two-thirds and shifted totally to the programs themselves. Our recruitment assistance unit is gone. We have reduced the staff of our nine regional offices by 50 percent, a reduction that maintains our capacity to assure oversight and compliance but leaves little room for technical assistance and support.

These reductions have eliminated successful and important components of the national legal services programs. The Corporation will no longer be in a position to assist local programs in improving the quality and efficiency of their legal work, nor will it play the same innovative role in the legal profession. These are regrettable consequences, but necessary in light of our primary commitment to the direct delivery of legal services to individual clients.

B. Field Programs

For the 1982 fiscal year, the Legal Services Corporation continues to fund 326 legal services programs. As you know, these programs are private, nonprofit entities operating in communities all across the country. Every one of these programs suffered serious funding reductions this past year. With the exception of programs serving Indians and migrants, the Corporation reduced the grant levels of local programs by 25 percent. Inflation reduced the operational level of programs even further, and other supplemental sources of funds -- federal, state, local and private -- were eliminated or reduced. The consequences were severe and cannot be ignored.

The first consequence of the funding reduction was the serious erosion of the minimum access plan -- a plan developed, funded and implemented in joint endeavor with this subcommittee. You will recall that the objectives of the minimum access plan were to ensure that poor people in every geographic area of the country were provided a basic level of civil legal assistance -- defined originally and modestly as two attorneys

for every 10,000 poor persons. It was developed and implemented because poor people in many areas -- primarily the South, the Southwest, the Midwest and particularly rural areas -- were previously without any access to civil legal assistance, thus denied effective participation in our system of justice.

The minimum access plan was finally completed in 1980, and it is particularly ironic that it is now being undercut at the very moment of its achievement. While we have maintained, and with your support will continue to maintain, the basic structure of the minimum access plan, we are no longer able to provide the equivalent of two attorneys for every 10,000 persons found by the Census to have incomes at or below the poverty line. Our formula funding has dropped from $8.23 per poor person in 1981 to approximately $6.20 this year. Given inflation since the original definition of costs in 1975, this amount now will barely support one attorney for every 10,000 poor persons.

Funding reductions for legal services programs have obviously meant staff reductions, office closings and intake restrictions, with consequent denial of service to persons in need. Approximately 1,773 attorneys and 1,026 paralegals already have been forced out of legal services as a result of these drastic funding cuts. At least 288 branch offices in communities in every part of the country have been closed, and the process of retrenchment is not yet complete. All of these numbers translate into one plain fact -- denial of service, denial of representation in legal matters of critical importance to an individual low income person.

The specific structural changes vary from one program to another, based on the particular geography of the service area, client priorities, transportation, community resources, and other local characteristics. The following are concrete examples of the effects of funding cuts on particular legal services programs.

- When the Corporation came into existence in 1975, the Legal Services Organization of Indianapolis provided service to eligible clients only in that city. Pursuant to the minimum access plan, the program assumed responsibility for service throughout the central and southern part of the State. By the beginning of 1981, the program -- now LSO of Indiana -- had 62 lawyers and 23 paralegals in its 11 branch offices throughout the service area. By the end of 1981, the program had closed six of its offices, and reduced its staff to 30 lawyers and 12 paralegals. Three cities in Indiana -- Muncie, Marian and Anderson -- were among the seven cities with the highest unemployment rate in the nation at the end of 1981. Last year, LSO of Indiana had offices in each of those cities. This year, only the office in Anderson remains to deal with the mounting legal problems economic conditions have created in those communities and the surrounding counties. The legal services programs serving the northern parts of the State -- Gary, South Bend and Fort Wayne -- have seen similar cutbacks.
- In Kansas, the state-wide program grew from three offices in the major cities in 1975 to 17 offices serving eligible clients in every part of the State in 1980. Now, seven of those offices are closed.
- In the State of Washington, during the past year, Evergreen Legal Services closed eight of its 27 offices and let go 52 of the 200 people on the program staff, including 26 attorneys.
- In North Dakota, the state-wide program is struggling to keep open the doors of all four of its offices. With distances of more than 200 miles between offices, there is no way any semblance of access for persons in rural North Dakota can be maintained if any one of those offices closes. Yet three of those offices have

only one attorney each -- an intolerable working situation -- and the program probably will not have enough money to keep even them there through the end of the year.

These changes have created hardships for the attorneys, paralegals and support staff who, after dedicating years to the high-pressure low-pay work of legal services, were told their contribution was no longer of value. The changes have been equally difficult for those legal services workers still with the programs, those who have watched respected coworkers leave and who continue to try to respond to pressing human problems with fewer resources.

But the most severe impact has been on the clients, the poor people who need legal assistance, in some cases merely to survive. One project director described the effect of office closings and staff reductions this way:

> We raised expectations; we began to develop some hope. And now we've abandoned them. Everyone is mad at us -- the clients, the legal community, the agencies that deal with poor people -- because we've left, just when they had begun to realize how important it was for us to be there.

C. Clients

The legal services program is a program for clients -- not for lawyers. The needs of clients must always come first -- and I can assure you that the Legal Services Corporation has been dedicated to that principle.

The clients of legal services are the poor of this country. They are individuals existing on less than $5,400 a year; families of four with annual income of no more than $10,500. While complete 1980 census data is not fully available at this time, the Current Population Survey, recently released by the Bureau of the Census, reports that 29,272,000 persons in the 50 states and the District of Columbia had incomes at or below the poverty line in 1980.

These figures do not reflect the effects of our current recession, where millions of individuals and families are

experiencing poverty for the first time in their lives. The latest unemployment figures, for example, indicate that approximately 9,289,000 were unemployed as of January 1982. The numbers of poor, and the numbers and severity of their legal problems, are certainly greater today.

More than ever before, legal services programs are seeing -- and too often turning away -- people in desperate survival situations -- old people freezing, young mothers not sure where they will find their next meal, unemployed persons who are losing their homes, families falling apart in the wake of problems brought on by economic disaster.

Some of these crises come to the attention of the press or of Members of Congress -- and sometimes your intervention can make a difference. One or two come to the personal attention of the President of the United States, and he can step in to set things right. But for every case which comes to light in these ways, there are thousands, equally desperate, equally compelling, that would go ignored were it not for the presence of trusted, caring and exceedingly competent legal services workers in the communities where poor people are struggling to hold their lives and their families together.

Such is the case of the 72 year old widow, living alone in Philadelphia, in a home where the temperature inside was below freezing. Legal services found her, got her fuel assistance, though not before she had to be hospitalized when the pin in her hip froze. When asked why she hadn't sought help on her own, her simple response was, "I didn't want to bother anyone."

In Iowa, a desperate mother of a 19-month old child found her way to legal services. The baby was suffering from Sudden Infant Death Syndrome, the condition which leads to crib death. The baby had been protected by a monitoring device hooked up to the child's mattress which gives an alarm when the child stops breathing. Now the government was taking away the device because the Department of Health and Human Services concluded that the baby was "too old" to have Sudden Infant

Death Syndrome. Legal services represented the mother before an Administrative Law Judge presenting medical evidence of the continuing danger to the baby. Benefits have been restored and the baby is still alive.

Legal services in the State of Washington took a similar case, this time it was an oxygen lung they saved for a man who could not breathe without it.

Another, all too typical, case involves an unemployed janitor -- once a farmer -- trying to hang on to his mobile home so that he doesn't have to enter the county poor farm. Legal services is representing him in his efforts to obtain public benefits which will help him live independently. At the same time, they are attempting to negotiate with the savings and loan institution that holds title to the trailer to work out a new payment schedule so the man can keep his home.

South Central Connecticut Legal Services in New Haven successfully intervened on behalf of poor people in that city who were told during below zero weather that they had to wait 21 days <u>after</u> they were out of fuel to get emergency fuel assistance.

Elsewhere in Iowa, legal services represented a woman with cancer in her sinuses, frequent pneumonia, four ruptured spinal discs and intestinal problems. She had been notified by Social Security that she was not totally disabled and must resume work, though at the time she was hospitalized. Her Social Security disability benefits were being terminated. The program represented the woman and, through the judicial process, in accordance with law, her benefits were resumed.

Not all cases have happy endings. Legal services workers in Iowa talk angrily about the unemployed father of four who gave up on efforts to appeal the denial of social security disability benefits and killed himself, so that his wife and children could get survivors' benefits.

A legal services worker in Indiana tells about the man who came to the office five days before time would run out on his opportunity to appeal a denial of unemployment benefits. There was nobody to help him.

In New Haven, the legal services program has always taken every case that was described as life-threatening, or that involved subsistence benefits. Now they have to make Solomon-like choices about which of these to take, which to turn away.

These cases I have just cited are not extraordinary. Any member of this subcommittee can go to the legal services offices in your own districts and find similar ones. In community after community, legal services programs report heavy and urgent demand for service. Significantly, they are also reporting changes in the nature of the demand -- changes that reflect our difficult economic circumstance and our changing public policies.

Last year major changes were made in the laws and regulations governing many of our important benefit programs. Most of our clients were directly affected by these changes. Legal services programs report large numbers of low income persons whose benefits and services have been terminated or threatened -- too often erroneously and without notice. In virtually every state, programs report heavy increase in demand for help in appealing termination of SSI and Social Security disability benefits. These terminations are made by Social Security after consultants review the paper in a client's file and decide he or she is no longer disabled. Legal services paralegals and lawyers are representing thousands of these disabled people in hearings before Administrative Law Judges. Reversal rates are astounding -- 64 percent in Iowa, "overwhelming" in Washington State, "almost unanimous" in North Dakota. Without legal services, most of those people would probably be without the

financial help that Congress intended when you established these disability programs.

Other types of legal problems are surfacing with increased, but not unexpected, frequency as well. As more and more people are unemployed, they come to our offices with all sorts of related legal problems -- not only concerning unemployment insurance, but also foreclosures, evictions, and debt collection matters. Programs are seeing an increased incidence of family violence problems, particularly in those areas of the country where unemployment is high. With reduced staff and fewer offices, our programs are nevertheless doing everything we can to assist as many people as possible.

For all the assistance provided by legal services, much more must be denied. Legal services programs simply cannot handle the demand. South Central Connecticut Legal Services in New Haven estimates that it will turn away approximately 10,000 eligible persons this year alone. Many programs are limiting their assistance to "emergency" matters, or cases that can be handled within 30 days. Numerous programs have focused their assistance on advice only.

Poor people -- including many who have never been poor before -- are in serious trouble in this country. For many poor people, the local legal services office represents their only hope.

III. Future

Given the nature and extent of the national debate over legal services during 1981, the emphatic support for the program in Congress and in the country, and the compelling evidence of urgent legal need among the nation's poor, our attention must shift now to ways to maintain and strengthen the program we have today. We welcome further debate in Congress and in other forums and look forward to refreshing ideas to sustain and to improve the program. It is, however, time to

lay to rest some aspects of the legal services debate. The outrageous, the bizarre and the ridiculous have taken our attention too long. They have detracted from the serious and difficult issues about legal services with which Congress, the Corporation, our programs and the legal profession must deal responsibly in the months ahead.

A. "Abuses"

It would be useful to turn our attention to more productive issues than the so-called "horror" stories about legal services for the poor. A small but strident opposition has argued with great regularity and emotion that legal services is fraught with abuses, out of control, and engaged in something referred to as "social engineering." The intense scrutiny paid to the legal services program last year and on other occasions effectively helped resolve most of these charges. Members of Congress and staff, the General Accounting Office, newspaper reporters and others have delved into issues brought up repeatedly by our critics. Their investigations revealed the ideological nature of much of the criticism, based on critics' disagreements with the laws, the rights, the protections that legal services enforce. Even more important, these investigations lead many to discover the real truth -- what legal services programs actually do, the kind of cases they actually handle, and now they actually operate.

The General Accounting Office (GAO), for example, has studied the Legal Services Corporation and its grantees almost constantly since 1975. Hundreds of programs have been visited and reviewed in detail and major reports have been issued with many additional "letter" reports prepared. The GAO has made some useful suggestions for improvement and has regularly endorsed Corporation plans and policies. The GAO has never brought to the attention of the Legal Services Corporation one instance of fraud, abuse or waste in the program.

The General Accounting Office, like Members of Congress and their staff, found a very different legal services program than that portrayed by the opponents of federally funded legal services for the poor. They found legal services programs operating in storefront offices, with young and dedicated attorneys working long hours for very low pay. They found that much of the work was far from glamorous or the stuff for newspaper headlines, but was routine and mundane. They found the most prevalent type of cases to be family matters -- divorce, child custody cases of personal importance to an individual. They found an overwhelming number of cases dealing with governmental benefits, not social engineering, but pure and simple enforcement cases -- an elderly person eligible for disability erroneously dropped from the program. This is not social engineering, this is merely enforcing what Congress, State Legislatures and the Courts have decided to be public policy.

The Legal Services Corporation has always investigated complaints about illegal or improper activities. On occasions, bar associations have looked into the more serious allegations. Time after time complaints brought by adverse parties to litigation or philosophical opponents of the program were found to be without merit. From the earliest days of this program, impartial investigation has revealed both the motivation of the critics, and the true nature of the legal services program.

Review of the legal services program is necessary and proper, but we urge this subcommittee and others to point future analysis in more positive directions. There are serious issues in need of debate: what is the appropriate balance between public funding and private efforts; what better mechanisms can be developed so that justice can be attained more often without the necessity of an attorney; and most importantly, how can legal services programs further improve their legal work and their service to low income clients.

B. Private Bar

Much of the recent debate in legal services has focused on the role of the private bar in meeting legal needs of the poor. This Administration continues to argue that the private bar can handle legal services for the poor -- that federal funding is unnecessary. In its most favorable light, this proposal is wishful thinking. A less favorable interpretation might term this proposal a shameful and cruel deception.

Since its inception, the Legal Services Corporation has worked hand in hand with the American Bar Association, the National Bar Association, and state and local bar associations around the country to expand and improve the availability of free legal services for the poor. I have nothing but praise and sincere appreciation for the enormous contributions, voluntary contributions, that literally hundreds of thousands of private practitioners have made to our common goal of ensuring equal justice for all persons in this country.

There is not one shred of evidence in the President's Budget Message or elsewhere to support the notion that the private bar in this country is either willing or able to replace the work conducted by the federally funded legal services program. There is, however, significant evidence of more importance to the debate -- that the presence of a core legal services program does much to provide a base and expand the possibility for pro bono efforts.

This evidence will show that federally funded legal services is an extremely effective and necessary stimulus for private and volunteer efforts. We have utilized federal funds to study and demonstrate the most effective methods of private bar participation. We have pioneered judicare delivery systems, specialized contracts, and organized pro bono systems that assure quality as well as volume. This year, every legal services program is moving to effectively integrate into their work interested and committed private attorneys.

But the fact is that federally funded legal services was established for the very reason that private attorneys were unable to handle the legal problems experienced by the more than 30 million people in this country who are far too poor to pay for the services of an attorney. The demand is simply enormous. At the high point of federal funding in 1981, legal services programs could meet less than 20 percent of the actual legal needs of the poor. Whatever effort we can get from volunteer attorneys must go to fill some of that gap between what we are now doing and what needs to be done; not to replace the relatively little the poor now receive.

Other factors are important to this debate as well. Despite common perceptions about the economic well-being of lawyers, the average attorney in this country has an estimated annual income of $35,000 per year. Relatively few can afford to spend more than a minimal amount of time on unpaid work. Our pro bono experience adds evidence to this point -- programs uniformly report that as the economy worsens pro bono contributions fall as well. With fewer paying clients, and others defaulting on their bills, private attorneys in small and solo practices are less able to donate their valuable time and expertise.

There are many critical issues to consider with respect to the proper role and most effective contributions of the private bar in the delivery of legal servies for the poor. If it were true that the private bar could effectively replace the work of legal services attorneys at no public cost, I can assure you I would join with others in urging the abolition of the Corporation. But this proposal is a false promise and has no place in our system of justice.

C. State Control of Legal Services

A third point of contention with respect to the legal services program involves the responsibility and capacities of state governments with regard to legal services -- an issue

that Congress presumably put to rest last year. Yet this Administration has once again proposed that the Corporation be abolished, federal funding for the program be eliminated entirely and immediately, and states be provided with the authority, though not the funding, to provide legal services for the poor if they so choose. The Administration argues that such an approach will enhance local control and decrease overhead costs. While those arguments may be persuasive in theory, they simply do not square with the facts with respect to legal services. Congress examined this proposal last year and determined that direct federal funding is critically important, economically efficient, and wholly consistent with the letter and spirit of local control. Nothing has happened to change that view.

The current legal services program is an extraordinary example of a structural framework for genuine local control over federal funds. The Corporation itself is a private, nonprofit organization outside of the executive branch of government and free not only from political manipulation and control but from many of the outdated and cumbersome aspects of our federal bureaucracy. The Corporation makes grants directly to local recipient programs -- the actual providers of legal services for the poor. These recipient providers are similarly not governmental agencies, but are private nonprofit entities governed by boards of directors composed of community residents -- not the federal government, not the state government, and not the Legal Services Corporation -- who make the day to day decisions concerning the operation of the program. Priorities for program operation are determined locally, and community differences are reflected in the wide variation in program orientation, design and caseload. Some of our programs serve small geographic areas, others like Vermont Legal Aid serve an entire, but relatively homogeneous state. Some rely almost entirely on full-time staff attorneys, while others use private attorneys participating in a judicare panel. Some make deci-

sions about cases with which others, primarily here in Washington, might disagree -- but we respect and defend the authority of local residents to make decisions commensurate with local needs.

It is simply not true that turning legal services over to the states would result in greater local control over this program. Rather than greater local control, such an approach would impose a new and more costly layer of bureaucracy. As you know, the central management and administration costs of the Legal Services Corporation have diligently been kept to a minimum. Consistently, over the years, less than two percent of the annual appropriation for the Corporation has been allocated for these critically important oversight functions -- functions like financial management and controls designed to protect the integrity of our public dollars. Regardless of the administrative structure, regardless of which level of government is involved, close financial scrutiny must be maintained. And it is simply impossible to suggest, consistent with the facts, that many of the critical functions conducted by the Legal Services Corporation could be undertaken in 50 states at a similar or lesser cost.

The Corporation's Audit Division, for example, is responsible for ensuring that all 326 recipients of Corporation grants operate accounting and financial reporting systems commensurate with our standards for protecting federal dollars. It has established and regularly monitors auditing standards and results in local programs. It has been enormously successful, and primarily responsible for the fact that legal services programs have not suffered a single instance of serious financial mismanagement or misappropriation of funds. This division employs seven persons, with an annual budget for FY 1983 projected at $330,000. It is inconceivable how 50 states could conduct this essential function at a cost similar to or lesser than our budget for the Audit Division. No evidence or facts have been presented to us, or to this subcommit-

tee so far as we know, to indicate how overhead costs such as these would be minimized by transferring the programs to the States.

But there are reasons even more compelling than local control and economic efficiency for maintaining the Legal Services Corporation and the direct federal funding of this program. The nation has a fundamental responsibility to provide access to justice for all persons and the separate, intentional provision of a modest amount of funding is critical to meet that responsibility. Legal services has its basis in the principles of fair play and equality before the law. Those values are fundamental to our constitutional form of government. We have chosen a system for the peaceful resolution of disputes through an adversarial judicial process. If this constitutional interest in fairness and due process is to have meaning, then individuals must have access to our system of justice, regardless of their ability to pay for legal help.

Legal services provides the "safety net" which enables the poor to gain access to the goods, services, and legal remedies that this society, through its elected officials, has determined should be available. It makes little difference what the law provides in terms of benefits or protections for the poor, unless the intended beneficiaries have the capacity to enforce that law -- a capacity that legal services provides.

Legal services is essential in a society that values respect for the law. The availability of legal assistance has done much to demonstrate to the poor that the law need not be viewed as an enemy, that the legal system can be made to work for them just as it works for powerful interests in this country.

Legal services is not just one of many social services that might be provided with public funds. It is an essential service that differentiates our society from others. It is a service which assures that the rights, the benefits, the

protections and the obligations provided by our laws are enforced effectively and equally among all persons in this country.

Legal services, by its very nature, requires some independence from government control at any level -- a fundamental principle Congress established when it created the Corporation. The legal disputes of the poor are frequently with public agencies that determine their income, provide their housing and often interfere with fundamental family decisions. Other legal problems involve the politically powerful private interests who control their finances, their debts, or their subsistence wage jobs. The existing organizational structure insulates local program decisions from the direct control of the public officials against whom the poor need legal assistance; at the same time it assures accountability to the source of public funds -- the Congress. That essential feature would be destroyed by state government control.

IV. FY 1983 Appropriation

Our budget request for FY 1983 is presented with the conviction that Congress continues its belief in the importance of legal services for the poor, its commitment to a federal role in this essential effort, and its support of the Corporation as an efficient and effective mechanism for distributing appropriated funds. The budget request is simple, sparse and modest. It recognizes the limits of federal funding in this time of deficits and economic difficulties. It requests $265 million for one purpose -- to maintain at current reduced operating levels the 325 legal services programs now in place.

Last year, you wholeheartedly endorsed this program and cut its budget by 25 percent. This year we again seek your endorsement and support, as well as your firm recognition that further cuts are impossible and cruel.

The FY 1983 budget request proposes to basically allocate the $241 million in the same manner as it was allocated in 1982

—primarily for the direct provision of legal services. The requested increase above the current $241 million level will permit the Corporation to deal with the effects of inflation and stabilize any further reductions in our minimum access plan.

The basic components of this budget request are as follows:

1) Ninety-six percent ($254.6 million) is proposed for allocation directly for provision of civil legal assistance to eligible clients --

   - $232,633,000 is proposed for allocation to basic field programs;
   - $16,398,000 is proposed for allocation to national and state support centers;
   - $5,455,000 is proposed for allocation to special programs, such as the Reginald Heber Smith program and the National Clients Council;
   - A mere $160,000 is proposed for Program Maintenance and Improvement and $450,000 for program development.

2) $5,528,000 is proposed for the Office of Field Services to support our regional offices and conduct necessary monitoring and evaluation activitier; and

3) The remainder of the request -- $4.9 million (1.9 percent) is allocated for the central management and administration of the Corporation.

V. Conclusion

I wish to personally thank each of the members of this subcommittee for the interest you have so diligently paid to legal services for the poor. This program is a child of Congress and it has been an effective and respectful one. We urge you to continue your special relationship with the program, sharing its directions, overseeing its activities, and evaluating its results.

COMPILATION OF LOCAL PROGRAMS FUNDED

Mr. BRADLEY. The only other thing that I think you and Senator Rudman would find especially useful—and we just completed this last week—is the compilation of the characteristics of all of the local programs that we fund. I won't go into it in detail. I think you and your staff can use it, and I will leave it up to your judgment as to whether or not it should be included in the record.

Senator WEICKER. This will also be included in the record in its entirety.

Mr. BRADLEY. I would call your attention to page 418, for instance, Mr. Chairman. I think this page vividly portrays how we at the national level disburse the funds. You will see that about 95 or 96 percent of all funds appropriated by the Congress are awarded in grants to local programs.

We retain only about 2 percent of funds at the national level for management and administration. I would also like to call your attention to page 420. Page 420, in column one, shows the amount of money that we allocated, by State, at the $321 million level and column two shows how much we allocated, by State, at the $241 million level.

Of course, the third column which, in this instance is a minus figure, shows the reduction, by State, as a result of the unfortunate but understandable 25 percent reduction.

Also, the last page to which I would call your special attention is page 421, because I remember last year when Senator Rudman asked me some specific questions.

Senator WEICKER. You know what I find interesting—let's go over to page 421.

Mr. BRADLEY. OK.

Senator WEICKER. I would bet if you asked the man on the street the ethnicity of the participants in this program they would say it is 90 percent blacks.

Mr. BRADLEY. And as you can see——

Senator WEICKER. It is 57.4 percent white.

Mr. BRADLEY. Right. And on the next page, page 422, we tried to break that into as detailed a report as we possibly could on the types of cases that each of our local offices handle.

These percentages, Senator Rudman, do not vary from year-to-year. For instance, last year, on total family problems, I think, if I remember correctly, it was 30.1 percent. That basically is consistent throughout the history of the program.

Senator RUDMAN. Obviously, this table and last year's, those of us who believe in the program found it to be very useful, because it is a clear rebuttal of some of the irresponsible statements that have been made to attack the program that have been made based on no fact or foundation whatsoever. This table clearly rebuts those.

I think this is the most powerful weapon you have. It shows, in fact, the funds are going precisely where I think anyone who understands the social structure in this country wants them to go.

Mr. BRADLEY. I submit that.
Senator WEICKER. It will be included in the record at this time.
[The statement follows:]

Characteristics of Field Programs Supported by the Legal Services Corporation, State of 1982—A Fact Book

Data contained in the following graphs and tables are based on information submitted by Legal Services Corporation supported field programs in their 1981 and 1982 grant applications. Grant applications for the 1982 program year were received in October - November, 1981. Furthermore, in February, all programs provided updated staff position and office counts for 1982.

The following tables and graphs are not based on data from all Legal Services Corporation supported programs. National Support Programs were excluded due to differences in staffing and budgeting patterns. In addition, a few field programs were omitted because data had not been submitted at the time the graphs and tables were prepared.

The FACT BOOK is a product of the Information Unit of the Office of Information Management.

NUMBER OF PROGRAMS SUPPORTED BY THE LEGAL SERVICES CORPORATION

At the start of 1982, there were 326 legal services programs throughout the 50 states, the District of Columbia, the Virgin Islands, Puerto Rico, Micronesia and Guam.

The 326 Legal Services programs include:

292 Basic Field Programs (including 40 Migrant Components and 23 Native American Components)

3 Migrant Programs

9 Native American Programs

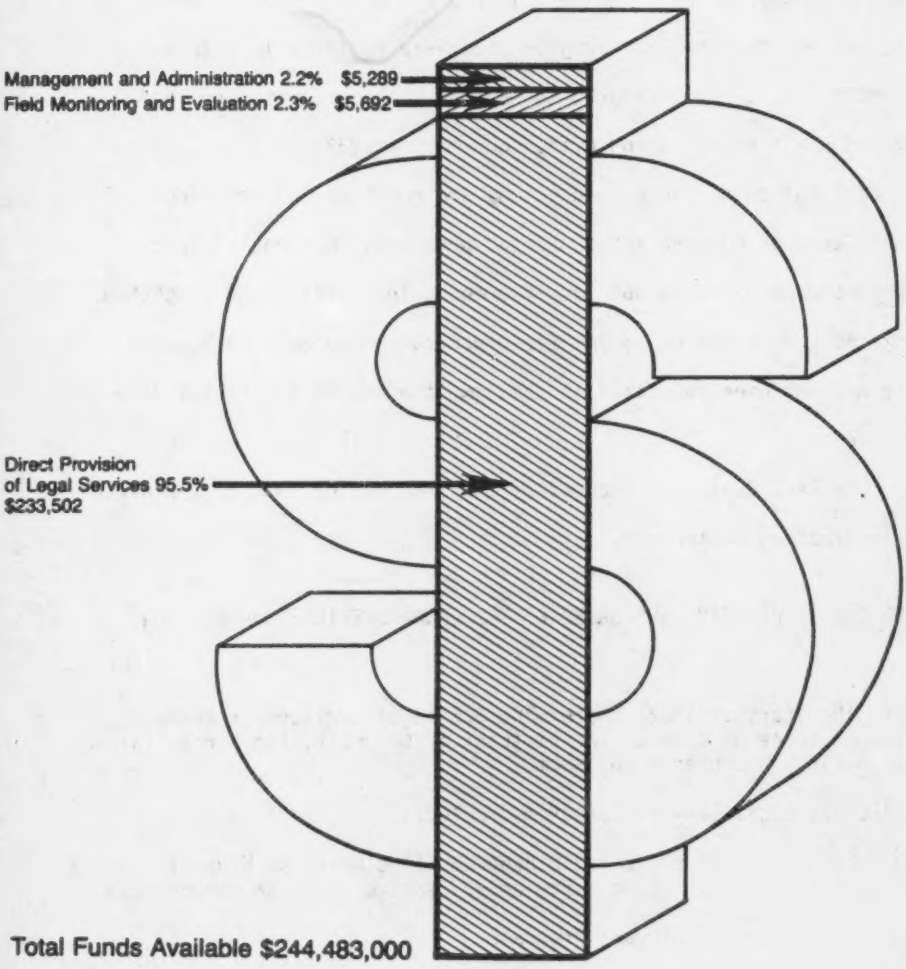
5 State Support Programs

17 National Support Centers

The number of field program offices at the start of 1982 was 1,187, as compared to 1,475 in 1981.

1982 DISTRIBUTION OF RESOURCES

Dollars in Thousands



Total Funds Available $244,483,000

FIELD PROGRAM ANNUALIZED FUNDING LEVELS BY STATE, FY 1982[a/]

State	Basic Field[b/]	Migrant	Native American	Total
Alabama	$ 5,502,876	$ 31,597	$ 0	$ 5,534,473
Alaska	984,179	0	340,939	1,325,118
Arizona	1,793,371	215,672	2,056,337	4,065,380
Arkansas	3,247,717	0	0	3,247,717
California	18,546,094	1,031,184	556,964	20,134,242
Colorado	2,151,338	142,761	17,992	2,312,091
Connecticut	2,133,858	47,394	9,868	2,191,120
Delaware	382,007	0	0	382,007
District of Columbia	2,362,496	0	0	2,362,496
Florida	7,182,714	703,013	0	7,885,727
Georgia	6,164,441	241,699	0	6,406,140
Hawaii	661,410	0	0	661,410
Idaho	657,514	170,307	40,957	868,778
Illinois	7,208,172	200,089	0	7,408,261
Indiana	3,330,722	93,933	0	3,424,655
Iowa	2,326,897	10,771	0	2,337,668
Kansas	1,764,718	45,239	0	1,809,957
Kentucky	4,707,463	4,385	0	4,711,848
Louisana	5,880,118	62,474	0	5,942,592
Maine	903,006	155,935	40,633	1,099,574
Maryland	2,480,559	79,402	0	2,559,961
Massachusetts	4,927,044	0	0	4,927,044
Michigan	5,626,133	353,820	90,503	6,070,456
Minnesota	1,706,147	256,010	150,657	3,112,814
Mississippi	5,023,199	0	52,403	5,075,602
Missouri	4,351,782	8,617	0	4,360,399
Montana	681,957	86,890	84,085	852,932
Nebraska	1,302,185	22,261	20,838	1,345,284
Nevada	382,551	4,309	83,830	470,690
New Hampshire	609,478	4,385	0	613,863
New Jersey	4,384,103	141,250	0	4,525,353
New Mexico	1,584,827	78,116	292,271	1,919,214
New York	15,112,712	199,977	0	15,312,689
North Carolina	6,454,262	220,478	87,782	6,762,522
North Dakota	710,830	0	122,835	833,665
Ohio	6,857,370	221,091	0	7,078,461
Oklahoma	2,921,666	68,937	228,744	3,219,347
Oregon	1,887,432	229,891	116,377	2,213,700
Pennsylvania	7,917,059	0	0	7,917,059
Rhode Island	719,035	4,385	0	723,420
South Carolina	3,836,812	86,890	0	3,923,702
South Dakota	719,619	4,385	588,622	1,312,626
Tennessee	5,506,368	9,336	0	5,515,704
Texas	13,181,301	1,356,418	19,631	14,557,450
Utah	782,114	31,597	28,155	841,866
Vermont	590,080	4,385	0	594,465
Virginia	4,480,091	56,198	0	4,536,289
Washington	2,749,629	356,893	152,257	3,258,779
West Virginia	2,485,576	10,054	0	2,495,630
Wisconsin	2,891,752	88,254	86,363	3,066,369
Wyoming	349,679	36,623	108,939	495,241
Micronesia	712,300	0	0	712,300
Puerto Rico	10,850,784	314,923	0	11,165,707
Virgin Islands	401,903	0	0	401,903
Guam	150,220	0	0	150,220
TOTAL	$204,163,670	$7,492,228	$5,378,082	$217,033,980

[a/] This table represents annualized funding levels in FY 1982, excluding national support funds.

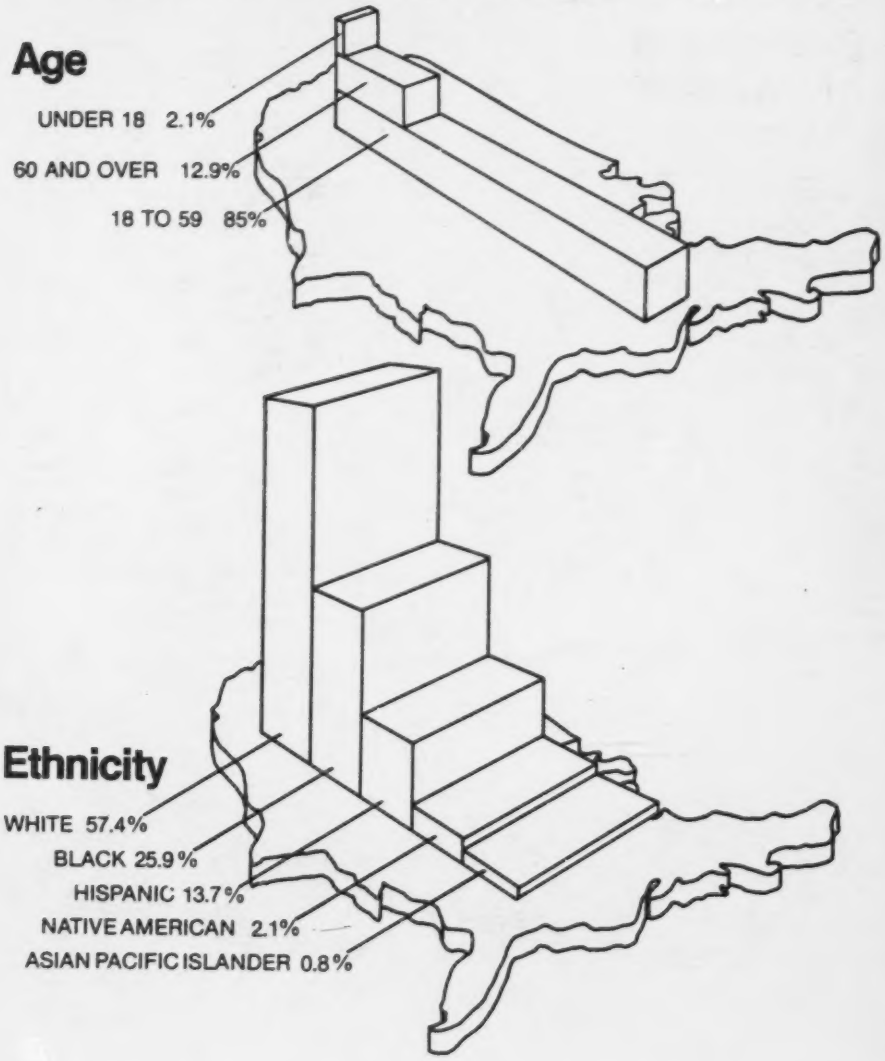
[b/] Includes funding for state support activities.

FIELD PROGRAM ANNUALIZED FUNDING LEVELS BY STATE, FY 1981 - FY 1982[a/]

State	FY 1981	FY 1982	Difference (Col. 1 - Col. 2)
Alabama	$7,335,239	$5,534,473	$1,800,766
Alaska	1,694,206	1,325,118	369,088
Arizona	4,969,451	4,065,380	904,071
Arkansas	4,307,888	3,247,717	1,060,171
California	26,411,093	20,134,242	6,276,851
Colorado	3,036,908	2,312,091	724,817
Connecticut	2,895,718	2,191,120	704,598
Delaware	506,708	382,007	124,701
District of Columbia	3,020,719	2,362,496	658,223
Florida	10,194,910	7,885,727	2,309,183
Georgia	8,452,334	6,406,140	2,046,194
Hawaii	770,478	661,410	109,068
Idaho	1,113,044	868,778	244,266
Illinois	9,789,328	7,408,261	2,381,067
Indiana	4,525,096	3,424,655	1,100,441
Iowa	3,098,762	2,337,668	761,094
Kansas	2,392,369	1,809,957	582,412
Kentucky	6,249,146	4,711,848	1,537,298
Louisiana	7,515,169	5,942,592	1,572,577
Maine	1,421,917	1,099,574	322,343
Maryland	3,380,840	2,559,961	820,879
Massachusetts	6,535,407	4,927,044	1,608,363
Michigan	7,969,343	6,070,456	1,898,887
Minnesota	4,053,233	3,112,814	940,419
Mississippi	6,722,704	5,075,602	1,647,102
Missouri	5,782,185	4,360,399	1,421,786
Montanta	1,099,526	852,932	246,594
Nebraska	1,776,410	1,345,284	431,126
Nevada	607,928	470,690	137,238
New Hampshire	813,434	613,863	199,571
New Jersey	5,976,295	4,525,353	1,450,942
New Mexico	2,476,756	1,919,214	557,542
New York	20,265,067	15,312,689	4,952,378
North Carolina	8,488,422	6,762,522	1,725,900
North Dakota	1,082,933	833,665	249,268
Ohio	9,344,569	7,078,461	2,266,108
Oklahoma	4,214,832	3,219,347	995,485
Oregon	2,871,861	2,213,700	658,161
Pennsylvania	10,501,470	7,917,059	2,584,411
Rhode Island	958,754	723,420	235,334
South Carolina	5,188,363	3,923,702	1,264,660
South Dakota	1,630,705	1,312,626	318,079
Tennessee	7,314,488	5,515,704	1,798,784
Texas	19,053,305	14,557,450	4,495,855
Utah	1,105,556	841,866	263,690
Vermont	787,703	594,465	193,238
Virginia	6,006,636	4,536,289	1,470,347
Washington	4,227,766	3,258,779	968,987
West Virginia	3,308,422	2,495,630	812,792
Wisconsin	3,932,956	3,066,369	866,587
Wyoming	629,803	495,241	134,562
Micronesia	944,820	712,300	232,520
Puerto Rico	14,751,960	11,165,707	3,586,253
Virgin Islands	533,098	401,903	131,195
Guam	199,257	150,220	49,037
TOTALS	$284,237,289	$217,033,980	$67,203,309

a/This table represents annualized funding levels in FY 1981 and FY 1982, excluding national support funds.

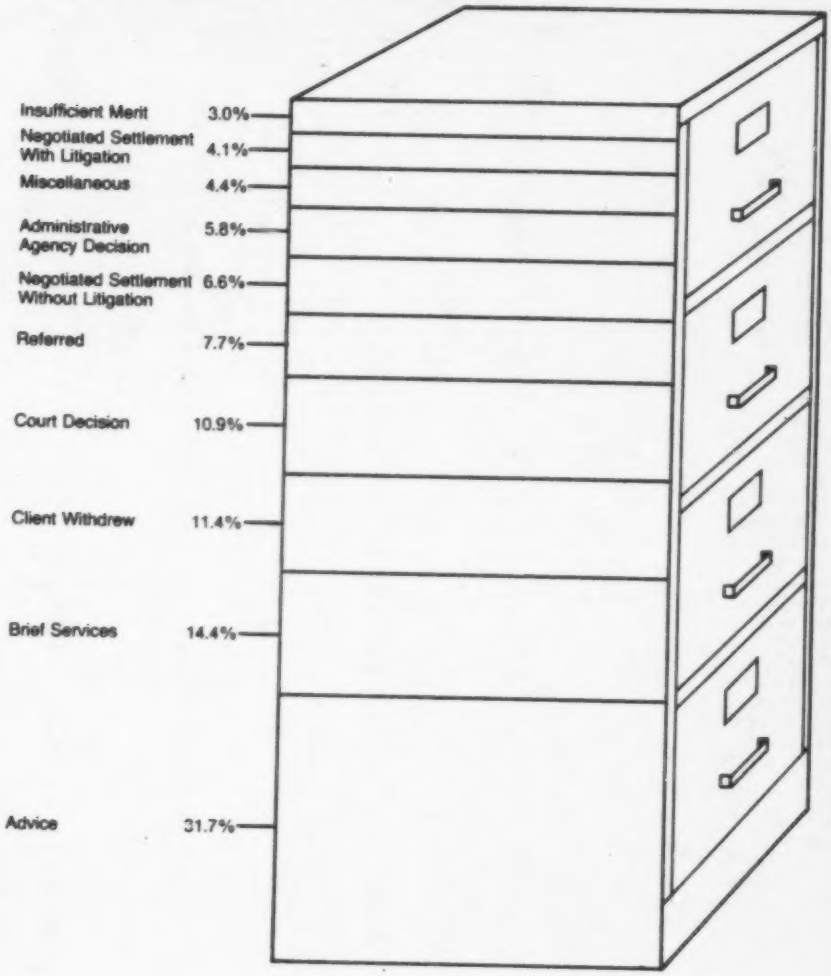
CLIENT CHARACTERISTICS



CLOSED CASES
Breakdown of Problems

– by percentage

CLOSED CASES
How the Cases Were Handled



FIELD PROGRAM ATTORNEYS AND OFFICES, START OF 1981 AND 1982[1/]

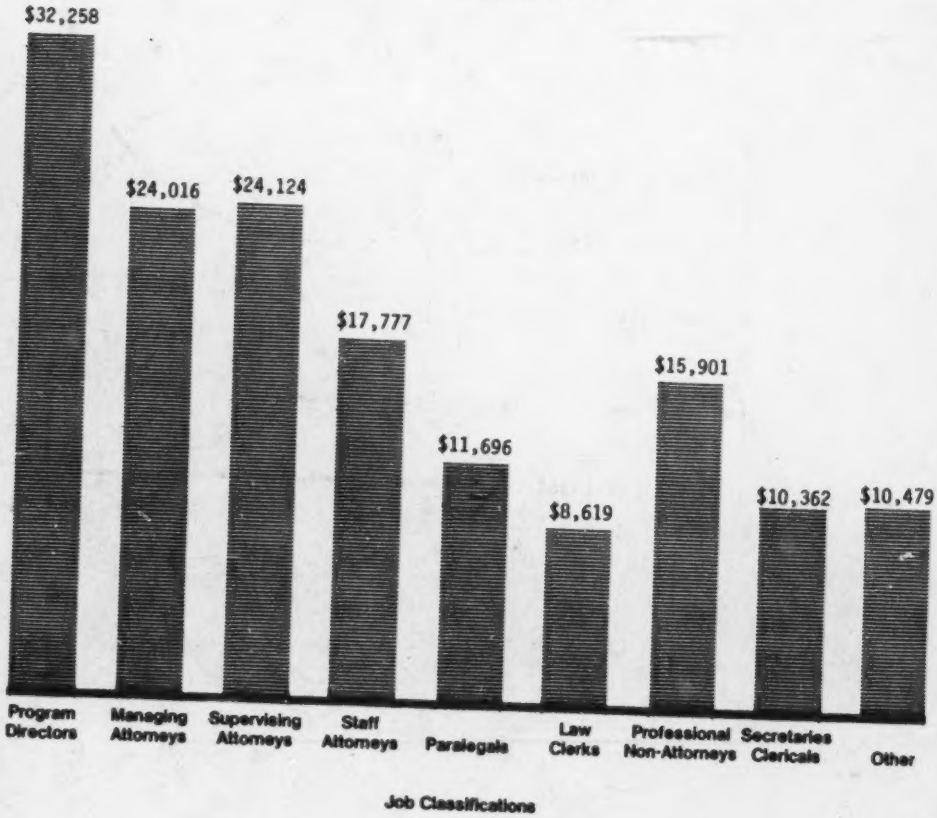
STATE	Number of Attorneys		Number of Offices	
	1981	1982	1981	1982
Alabama	132	79	29	28
Alaska	45	35	12	11
Arizona	102	66	31	20
Arkansas	71	58	21	16
California	509	322	109	74
Colorado	73	44	24	20
Connecticut	113	88	32	19
Delaware	16	15	4	3
District of Columbia	62	61	10	10
Florida	212	146	56	39
Georgia	152	123	28	24
Hawaii	29	30	8	9
Idaho	36	27	11	8
Illinois	239	167	44	33
Indiana	109	54	23	9
Iowa	74	50	17	11
Kansas	69	32	17	11
Kentucky	132	98	25	22
Louisiana	87	79	31	24
Maine	30	22	9	6
Maryland	81	68	15	15
Massachusetts	187	141	32	29
Michigan	189	128	56	40
Minnesota	128	64	28	22
Mississippi	98	73	34	27
Missouri	121	84	32	13
Montana	33	23	14	11
Nebraska	53	26	9	7
Nevada	19	15	4	4
New Hampshire	23	20	7	7
New Jersey	153	119	35	27
New Mexico	57	29	22	19
New York	458	305	86	77
North Carolina	132	117	31	31
North Dakota	17	10	6	6
Ohio	271	211	64	57
Oklahoma	82	63	22	19
Oregon	81	78	18	18
Pennsylvania	412	316	93	81
Rhode Island	23	15	3	2
South Carolina	89	56	21	21
South Dakota	32	22	14	10
Tennessee	174	113	31	20
Texas	304	213	69	63
Utah	21	19	4	4
Vermont	32	26	7	7
Virginia	142	105	44	44
Washington	140	83	29	23
West Virginia	73	42	35	23
Wisconsin	77	52	15	11
Wyoming	16	10	5	5
Micronesia	17	11	9	7
Puerto Rico	312	295	36	36
Virgin Islands	13	12	3	3
Guam	4	4	1	1

[1/]The attorney category includes program director, managing attorney, supervising attorney and staff attorney classifications. Data for 1982 reflect program information updates as of February 1982. Some figures for 1981 may be under reported due to the timing of the 1981 submissions.

LEGAL SERVICES CORPORATION
FIELD PROGRAM EMPLOYEES BY JOB CLASSIFICATION
START OF 1981 AND 1982

Job Classification	1981	1982	Difference	Percent Change
Attorneys:				
Program Directors	334	323	-11	-3.3
Managing Attorneys	1,199	792	-407	-33.9
Supervising Attorneys	572	392	-180	-31.5
Staff Attorneys	4,232	3,057	-1,175	-27.8
Total Attorneys	6,337	4,564	-1,773	-28.0
Non-Attorneys:				
Paralegals	2,857	1,831	-1,026	-35.9
Law Clerks	501	286	-215	-42.9
Professional Non-Attorneys	1,035	729	-306	-29.6
Secretarial/Clerical	4,501	3,171	-1,330	-29.5
Other	308	325	+17	+5.5
Total Non-Attorneys	9,202	6,342	-2,860	-31.1
Total Staff	15,539	10,906	-4,633	-29.8

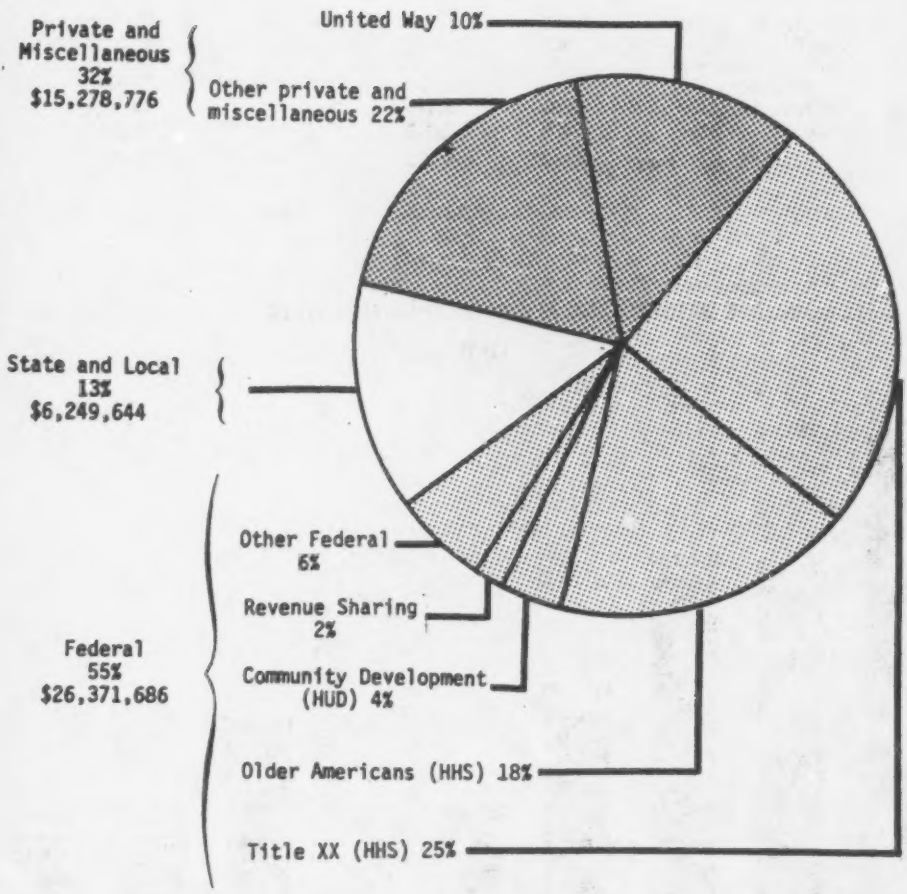
ESTIMATED AVERAGE SALARIES OF FIELD PROGRAM EMPLOYEES BY JOB CLASSIFICATIONS
START OF 1982



ESTIMATED DISTRIBUTION OF NON-CORPORATION FUNDS

BY SOURCE IN 1982

Total $47,900,042



FIELD PROGRAM ALLOCATIONS OF CORPORATION AND NON-CORPORATION FUNDS BY BUDGET CATEGORIES[1]

FISCAL YEARS 1981 AND 1982[2]
(Dollars in Thousands)

	FISCAL YEAR 1981 (Estimated)		FISCAL YEAR 1982 (Estimated)	
	Dollars	Percent	Dollars	Percent
TOTAL FIELD PROGRAM ALLOCATIONS	$359,530	100.0	$271,166	100.0
Total Personnel Allocations	268,209	74.6	184,692	68.1
Attorneys	132,667	36.9	89,214	32.9
Paralegals	33,436	9.3	23,890	8.8
Other Support Staff	68,670	19.1	46,912	17.3
Employee Benefits	33,436	9.3	24,676	9.1
Total Non-Personnel Allocations	91,321	25.4	86,474	31.9
Office Space	21,572	6.0	16,541	6.1
Equipment Rental	5,033	1.4	3,715	1.4
Office Supplies	10,067	2.8	7,213	2.7
Telephone	12,224	3.4	10,033	3.7
Program Travel	7,550	2.1	5,911	2.2
Training and Conference Travel	3,595	1.0	2,901	1.1
Library	4,675	1.3	3,552	1.3
Insurance	2,517	0.7	2,712	1.0
Audit	1,798	0.5	1,546	0.6
Litigation	3,236	0.9	2,766	1.0
Capital Additions	6,112	1.7	5,884	2.2
Contract Services[3]	7,550	2.1	17,273	6.3
Other	5,393	1.5	6,427	2.3

1/Field Program allocations include Corporation funds for Basic Field Programs, Migrant Components, Native American Components, Support Centers, and all Non-Corporation funds as reported in field program grant applications for Fiscal Years 1981 and 1982.

2/The percentages for the budget categories were derived from field program grant applications for Fiscal Years 1981 and 1982. The estimated expenditure levels were derived by application of the percentages to total field program allocations.

3/Contract Services are primarily costs of retaining private attorneys to represent Legal Services Corporation clients. The Contract Services category was not reported prior to Fiscal Year 1981.

LEGAL SERVICES CORPORATION

FIELD PROGRAM EQUAL EMPLOYMENT AND AFFIRMATIVE ACTION DATA - FISCAL YEAR 1981[1/]

	FEMALE		WHITE		BLACK		HISPANIC		NAT. AMER.		ASIAN		TOTAL	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
ALL ATTORNEYS	2,033	35.8	4,355	76.7	650	11.4	544	9.6	35	0.6	94	1.7	5,678	100.0
Program Directors	39	12.4	259	82.5	34	10.8	13	4.1	6	1.9	2	0.6	314	100.0
Managing Attorneys	274	25.1	848	77.7	97	8.9	126	11.5	8	0.7	12	1.1	1,091	100.0
Supervising Attorneys	160	30.5	448	85.5	44	8.4	20	3.8	1	0.2	11	2.1	524	100.0
Staff Attorneys	1,560	41.6	2,800	74.7	475	12.7	385	10.3	20	0.5	69	1.8	3,749	100.0
ALL NON-ATTORNEYS	6,761	82.2	4,173	50.7	2,237	27.2	1,472	17.9	211	2.6	133	1.6	8,226	100.0
Paralegals	1,799	69.6	1,307	50.6	726	28.1	427	16.5	87	3.4	37	1.4	2,584	100.0
Secretarial/Clerical	3,932	97.1	1,898	46.9	1,135	28.0	867	21.4	90	2.2	59	1.5	4,049	100.0
Professional Non-Attorney	702	73.4	582	60.9	236	24.7	94	9.8	18	1.9	26	2.7	956	100.0
Other Non-Attorney	328	51.5	386	60.6	140	22.0	84	13.2	16	2.5	11	1.7	637	100.0

[1/]Fiscal Year 1981 data based on field program reports as of January 1, 1981 and do not include estimates of some additional staff recruited between January and December, 1981.

WORDS OF APPRECIATION

Senator WEICKER. Senator Rudman, do you have any questions?

Senator RUDMAN. I do not have any questions. I am going to look at this report very closely. I mainly came down here this morning because I knew Mr. Bradley was going to be here. I just wanted it on the record to thank him for his past services.

Mr. BRADLEY. I appreciate that, sir.

Mr. Weicker, if I could, I feel good, frankly, appearing in this room with you two individuals. If Mr. Hollings were sitting to your left, I would say we probably had, if the three of you were here together, three of the strongest supporters in this body.

Senator WEICKER. Absolutely.

Mr. BRADLEY. I want you to know that we are very, very pleased with your great support. I do think there are a lot of things I want to point out.

Senator WEICKER. Please; I did not mean to cut you off.

RESULTS OF 25 PERCENT REDUCTION

Mr. BRADLEY. I can summarize this in just a couple of minutes. I think it is important for you to understand what have been the results of the 25-percent reduction. I am happy to tell you that while the future of Legal Services in terms of dollar amounts may not be as rosy as it was last year, that all 326 programs that we fund are today in operation.

However, as a result of the reduction in funding, as of today, we have 18 percent fewer legal aid offices than we had at this time last year.

We have 28 percent fewer attorneys than we had at this time last year.

We have 36 percent fewer paralegals than we had at this time last year.

The Corporation, my offices, which basically had a staff of 300 people, is where we visited the heaviest cuts. We laid off about 150, 47 percent of the entire headquarters and regional offices staff of the Corporation, because we wanted to put as many dollars as possible into the local legal services program.

I think the best way—and I am not going to pull out all my charts—but the best way to demonstrate the effect of the reduction to you is by looking at a couple of charts. Under the minimum access plan, and Senator Rudman, this was before you became a member of the U.S. Senate; but under the leadership of this committee and especially Neal Smith on the other side, we started out in 1976 with a minimum access legal services plan to provide service in all areas.

This committee and the committee on the other side embarked upon a 5-year plan of the expansion of legal services to every county in America. This map shows you one State, I selected Indiana. I could have selected almost any other State. You can see that in 1975, we had legal services in only four counties in Indiana.

Last year, at the completion of your minimum access plan with our $321 million appropriation, every county in the State of Indiana had legal services with 23 offices in the State. That does not mean that we had a legal aid lawyer and a full-time staff in every county, but, in fact, in every county in America, we had minimum access, which, as you know, Senator Weicker, was defined at two lawyers for every 10,000 persons.

Because of the 25-percent reduction, this map shows you the State of Indiana today. Now there are only 9 offices operating full-time throughout the State of Indiana at the beginning of this year. This area, of course, had three neighborhood offices in just one county, which is a suburb of Chicago, as you know.

Because of the 25-percent cutback in funding, and you recall that this committee and the House committee basically marked up our bill in early summer, we knew that we were facing a 25-percent reduction. We then notified all of our programs officially in September of last year telling them that the local programs had approximately 3 or 4 months to plan for a reduction in the program's budget. As you recall, these decisions are not made by us in Washington but by local boards of directors composed of 60 percent lawyers in each of these communities.

PROVISION OF SERVICES WITH REDUCED FUNDING

What the local boards did in Indiana was to decide which offices would close. They closed nine of the offices. For instance, three of the seven cities in America with the highest unemployment are in Indiana. Last year we had an office in each of the counties to serve those cities. Unfortunately, the boards in the Indiana program decided, after going through a long and exhaustive planning process, to close all of the offices but these nine. Now only one of those three cities is served by an office in the county.

That does not mean clients are being abandoned. We are committed to continuing, as best as we can, a minimum access service. In fact, what that means is where these offices are now closed, we are still serving those clients in those communities but the truth of the matter is we are serving them on a catch-as-catch can basis.

We do it by one of three ways: We have reduced in half the WATT's lines, the incoming phone lines that poor people, especially rural, elderly people could use to call the local offices.

We have had to greatly reduce the number of paralegals and what we call outreach workers who basically rode circuit in these surrounding areas. Now what we have basically informed all of the residents of these outlying areas is that we will get to you as often as we can, but it may be 1 day a month rather than 1 day a week.

Residents are told that we are here if you can find your way into our offices.

This is just typical. What we did not do, and it is important for this committee to understand, is we did not close services in any county. We are just not serving as many people, and we are not serving people as frequently as we did when we had the full amount of access.

Basically, that is the picture of Legal Services in all of our States.

The figures that are in the factbook show, by State, for instance, in Connecticut, we have 22 percent fewer attorneys and they have had to close quite a few of their offices.

1983 BUDGET REQUEST

What our budget request basically does for next year, is to ask for the $241 million we had this year plus a 10-percent increase. Quite frankly, I reported to my board when they voted to make that increase, in light of the budget constraints and the pressures which you Members of Congress are feeling, that it is doubtful that we would get that increase. But if the increase were granted, what we would basically try to do is provide technical assistance, some inflation adjustment, and to try to go back and assist those programs that are still going through the destabilizing, demoralizing effort of still closing offices and not serving clients.

That is basically all that I have to report to you, and I will be happy to answer any questions. Before I do, because this is, in fact, almost my last day on the payroll, I want you to know that it has been a very, very, very, very good pleasure for Mary and I, and my staff to especially work with the members of your committee and your staff. I don't know what we would have done, quite frankly, without Claudia and Tim and Warren and the other staffers. It has been a pleasure working with them.

I think we probably get in their hair too much, but they know as much about Legal Services as I do. It is primarily because they do their work well. I will be happy to try to answer any questions that you have or comment on anything else that concerns you.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. I have some additional questions along with Senators Hollings and Bumpers. As I indicated to you, I just thank you for an outstanding job. Whatever you do, I know you are going to succeed at it.

Mr. BRADLEY. I will be struggling for Legal Services but in a different role and in a different location and in a different capacity.

Thank you, Mr. Chairman. Thank you very much.

Senator RUDMAN. Good luck, Dan.

Mr. BRADLEY. Thank you very much.

[The following questions were not asked at the hearing but were submitted to the Corporation for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LOWELL P. WEICKER, JR.

Possible Budget Amendment

1. Dan, are we likely to receive a budget amendment from the new board of directors in the foreseeable future?

As you know Senator, I will be leaving the Corporation on March 31. I am sure the new president will be in contact with you.

Corporation Objectives

2. A major short-term objective of the Legal Services Corporation has been to provide minimum access to civil legal assistance by establishing local legal services programs to serve low income persons in every part of the country. Congress endorsed the minimum access plan and funded its implementation over a four year period. Last year it was unfortunately necessary to make funding reductions in this program and others.

-- What are the effects of last year's funding reductions on the minimum access plan?

-- Has the Corporation continued to ensure that poor persons in every part of the country are still "eligible" for legal assistance? Does eligibility guarantee actual service? Do you have any estimates about proportion of poor people in need of service but denied it for lack of resources?

Because of budget reductions, the Corporation can no longer afford to provide the equivalent resources of two attorneys for every 10,000 poor persons. Our per capita formula funding has decreased from $8.23 per poor person in 1981 to approximately

$6.20 in 1982. This amount barely supports one attorney for every 10,000 poor persons.

Low income persons in all parts of the country continue to be "eligible" for legal services. Unfortunately, eligibility per se does not guarantee actual service, since our funding has never been adequate to serve all those in need. Local programs have developed priorities for the allocation of program resources. Currently, as a result of budget reductions, many programs have curtailed their intake to emergency cases or have had to severely limit their service capability.

As mentioned in my testimony, many more people are seeking legal assistance than ever before. I cannot, however, provide accurate estimates at this time about the numbers of poor seeking assistance who are turned away due to a lack of resources.

3. It is my understanding that, in accordance with the minimum access plan, the Corporation funds local programs on a formula basis.

-- What benefits has formula funding brought to the legal services program overall?

-- Would you recommend a continuation of this approach even with reduced dollars?

Our per capita formula funding has resulted in uniformity in funding based on the actual number of persons living at or below the poverty threshold within each program's service area. The formula approach has also brought much needed stability and certainty to the operation of legal services programs. Finally, formula funding is especially consistent with statutory requirements that prohibit political manipulation of grants and contracts. I would wholeheartedly favor the continuation of such an approach in the future.

Connecticut Case: Howard Gianotti, Woodview Apartments, East Haven

4. Dan, my office has been in contact for several months now with Howard Gianotti, the owner and manager of Woodview Apartments in East Haven, CT. Mr. Gianotti claims that the New Haven Legal Assistance Association has been involved in a vexatious suit against him with regards to the operations of his apartment building. Mr. Gianotti will be appearing before this Committee as an outside witness. I would like to hear your comments about this action by one of your sponsored programs.

Mr. Gianotti claims that inordinate amounts of time and money are being spent by the New Haven legal aid program. Can you give us any details concerning the magnitude of this effort?

Senator, since this matter is pending in federal court, it would be inappropriate for me to comment on the merits of the case. I would point out that there is no evidence of inordinate resources being devoted to this case. There is only one attorney of record assigned to the case.

Whether the suit is vexatious is for the court to decide. If proven, there is a pecuniary remedy in the Legal Services Corporation Act. Section 1006(f) provides for the payment of attorneys fees and costs for a prevailing defendant, upon a judicial determination that the suit was for the sole purpose of harassment or malicious abuse of judicial process.

Lobbying and Other Restrictions

5. The Legal Services Corporation Act as well as appropriation legislation currently contains numerous restrictions on the representation made available to low income persons by legal services attorneys. H.R. 3480 puts many additional

restrictions on legal services work, but to date, H.R. 3480 has not been enacted into law.

-- What are the current restrictions on lobbying activities by legal services personnel?

-- What are the current restrictions on representation of aliens and homosexuals?

-- How does LSC interpret the H.R. 3480 restrictions on representation of illegal aliens?

-- How does LSC interpret the provisions of H.R. 3480 regarding its ability to represent homosexual clients?

-- Have these restrictions effectively limited representation of low income persons in these areas?

Lobbying activities by the Corporation and its grantees are currently restricted by Sections 1006(c)(2) and 1007(a)(5) of the Legal Services Corporation Act and the rider to our annual appropriation legislation. While proscribing much activity, these provisions permit the Corporation and grantees to visit with Members of Congress and this Committee with respect to appropriation and reauthorization legislation, as well as other matters directly affecting local programs. Most importantly, the provisions allow legal services programs to represent the interests of their clients in the legislative arena.

Current restrictions on the representation of aliens preclude any activity for or on behalf of any individual who is known to be an alien in the United States in violation of the Immigration and Nationality Act or other immigration laws. The current restriction on the representation of homosexuals precludes any litigation which seeks to adjudicate the legalization of homosexuality.

Until Congress decides which restrictions to apply to future legal services activities, the Corporation will defer

the adoption of formal interpretations through its regulatory process.

The many restrictions on legal services activities have been fully enforced, and have meant that in certain areas poor people are denied necessary legal assistance.

Interest Income and Real Property

6. It is my understanding that local legal services programs are also private nonprofit entities, governed by boards of directors. The Legal Services Corporation makes grants to these entities, and they are presumably responsible for over-seeing the expenditures of these funds.

-- Are grantees allowed to deposit funds in interest-bearing accounts?

-- Are grantees allowed to utilize funds for the purchase of real property?

-- How does the Corporation ensure that funds are utilized at the local level in conformance with the Legal Services Corporation Act and regulations, as well as with other financial and legal requirements?

Local programs are allowed to deposit funds in interest bearing accounts. The Corporation, however, demands prudent use of these funds in strict conformance with the requirements of the Legal Services Corporation Act and regulations, as well as with generally accepted accounting principles for private non-profit organizations. Every grantee is audited annually by private certified public accounting firms and the audit reports are filed with the Corporation and the General Accounting Office.

Grantees also make decisions that result in the purchase of real property when it is determined to be more cost effective than renting. We believe these decisions are consistent with sound management decisions regarding the use of Corporation funds.

The Corporation insures compliance by grantees with the provisions of the Legal Services Corporation Act, regulations and other financial and legal requirements primarily through our nine regional offices. This is accomplished through monitoring and evaluation of grantees, including at least one annual on-site visit. Regional offices prepare an annual report on each grantee which reports on program performance, problems and improvements. Regional offices are staffed with attorneys familiar with poverty law as well as management specialists with expertise in program finance and administration.

Other Activities

7. In 1981, an LSC recipient engaged in a study involving on-site interviews of participants in the Tazewell County, Virginia, workfare demonstration project. Currently, workfare is a permanent statutorily based program.

-- What was the purpose of the study conducted in Tazewell County, Virginia?

The issue of workfare, the need to develop a strategy to broaden access for the poor to private sector jobs and the identification of legal concerns brought about by contemplated changes in benefit and entitlement programs for the poor were priority issues for the National Social Science and Law Center (NSSLC), a Corporation funded national support center.

Accordingly, NSSLC conducted a study of workfare in Tazewell, Virginia by investigating client experiences with the program.

GAO, at the request of the Ranking Member of the House Agriculture Committee, recently completed a review of NSSLC's study and found no evidence of violations of the Legal Services Corporation Act or other statutory violations.

Actual Reduction Since Fiscal Year 1981

8. For the first four years of its existence, your program was dramatically expanded to obtain the Corporation's goal of minimum access, that is providing two attorneys for each 10,000 poor persons in this country. Your statement points out that the current level of funding requested will provide only one attorney for every 10,000 poor. How much would it cost to provide the same minimum access goal in FY 1983? I believe your answer will give us a much better comparison as to what extent the program has been eroded since your minimum access goal was achieved in 1980.

The minimum access plan was designed to provide the equivalent of two attorneys for every 10,000 persons found by the U.S. Census to have incomes at or below the official poverty line. When first developed in 1975, the Corporation calculated the cost of the minimum access plan to be approximately $7 per poor person. This calculation was based upon the various costs associated with supporting attorneys -- salary, overhead, clerical support, etc. As you know, the Corporation finally achieved its minimum access plan in 1981 -- with a Congressional appropriation of $321 million.

We have not conducted the many surveys and calculations necessary to ascertain exactly the costs associated with

supporting two attorneys for every 10,000 poor persons in 1982 dollars. In addition, we do not have complete census data regarding the number of people at this time with incomes at or below the poverty line. In spite of these qualifications, however, we can tell you that in current dollars at least $400 million would be necessary to once again restore the legal services program to its minimum access achievement, in addition to the costs associated with adequate management and support of the program. And again, while this amount seems far out of reach to any of us today, it is necessary to emphasize the modest nature of the minimum access plan. We are not talking about providing legal services to every poor person with a legal problem. Rather we are only talking about a minimal level of service -- the ability to serve those most in need, those with priority legal needs.

Corporation Objectives

9. A major short term Corporation objective has been to provide minimum access to civil legal assistance by establishing a program to serve every county in America. In 1981, under the Corporation's $321 million appropriation, about 1.5 million cases were being handled, which the Corporation estimated to be less than twenty percent of actual need.

What does the Corporation estimate to be the effects of further appropriation reductions on its "minimum access" objective?

How does the Corporation estimate and/or project the need for legal services?

What percent of actual need for legal services does the Corporation estimate it will handle in 1982, and prospectively (given its request for $256 million) in 1983?

The funding reduction imposed on legal services has seriously eroded the Corporation's minimum access plan. It means that we can no longer support two attorneys for every 10,000 poor persons. It is particularly tragic that such erosion occurred at the very moment when minimum access to civil legal assistance was finally achieved in this country.

We cannot, however, provide you with accurate estimates at this time regarding the percent of actual need for legal services that will be met in 1982 and 1983. We know that demand is increasing substantially with the changes in governmental programs and the growing ranks of the poor. But our case data for 1982 is obviously not available at this time, and this precludes us from estimating the proportion of need that will be met.

Interest Income and Real Property

10. A North Carolina LSC recipient has purchased real property, rather than rent or lease, for the purposes of office space. Such a transaction involves a front-end expenditure of grant funds rather than applying them to the recurring costs of providing legal services throughout the grant period.

How many properties have been similarly purchased by LSC recipients and what are the costs and values of such properties?

What are the current LSC regulations regarding disposal of real property (1) in case of the termination of an LSC program and (2) if an LSC grantee decides to dispose of any such property?

Your question requires lengthy and complex data collection. We do not have the information readily available, but would be happy to undertake such an endeavor if the Committee so desires. In all cases involving the purchase of real

property, decisions have been made concerning the most cost effective method for securing space.

The Corporation's regulations and property management manual for grantees provide for a revisionary interest in the purchase and disposition of assets. The Corporation restricts the disposition of grantee property with a fair market value of $1,000 or more to (1) transfer to another grantee or to a non-profit entity serving the poor in the same community; (2) sale to the highest bidder; or (3) sale at fair market value. Proceeds from the sale of property must be credited to the account of either the grantee or the Corporation and may be used for general program purposes or for purchasing other property.

QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

1. Last year the Committee inserted 4 restrictions on the use of the Corporation's funds that are not operative under the Continuing Resolution. While the Corporation would undoubtedly desire to have no restrictions at all, what are your views with regard to those additional restrictions?

While the Corporation has not supported additional restrictions on the type of representation available to low income persons, we do feel that the restrictions adopted by the Senate Appropriations Committee are reasonable ones, carefully drafted to take into account the many complexities in the legal services program.

2. Your statement is a little confusing as to the impact of the 25% reduction you suffered in 1982. You indicate that the Corporation's staff was reduced by 45%, the Regional

Offices by 50%, training by 2/3rds, the Research Institute eliminated, and that no funds were allocated for demonstration. With all these heavy cuts, it would seem that the reduction in the Field programs would be less than 25%.

Why then did the Indiana program you cite on p. 7 of your statement have to reduce their attorneys by more than 50%?

The reductions are somewhat confusing and a firm understanding requires a careful examination of the Corporation's overall budget allocations. It must be kept in mind that the Corporation's share of the annual appropriation is a very small one. Therefore, while every effort was made to cut back on the Corporation's centralized administration -- efforts you mentioned such as reducing our staff by more than 45%, reducing our regional offices by 50%, and eliminating our Research Institute -- the actual dollar savings generated remained small. In addition, reductions to our Indian and migrant programs were limited to approximately 12.5%. The net result still required a 25% reduction in the grants to basic field programs.

The retrenchment decisions of the Legal Services Organization of Indiana (LSOI) were based on several factors, including increased costs due to inflation, the 25% grant reduction, the 10% set aside for private bar participation (required by the Corporation), and a long range assessment of future funding levels for legal services. As a result, LSOI's Board decided to implement a retrenchment policy designed to withstand future funding losses and maintain continuity of service in its program area, as opposed to a piecemeal policy that would have a continuing disruptive impact. Unfortunately this required a 50% reduction in the attorney staff.

3. We could put more money into the local programs if we eliminated the $16,398,000 for the National and State Support. The fellow above the poverty line may have access to a lawyer for help with his legal problems, but he certainly doesn't have access to the backup that the legal services program enjoys. Why don't we concentrate all the money -- except that needed for management, auditing, etc. -- into the 325 local programs that you say are dropping from $8.23 per poor person in 1981 to $6.20 in 1983.

The $16.3 million requested in fiscal year 1983 for state and national support is vital because of the unique legal needs of the poor. Support centers undertake representation of eligible clients and facilitate local program representation on state and national issues. Support centers provide substantive expertise in complex issues which local programs do not have the time or resources to develop. Finally, with increasing participation by the private bar in the delivery of legal services, support centers are necessary to provide private attorneys with substantive and procedural expertise to insure the continued provision of quality legal assistance.

4. While the dedication of the legal services attorneys is commendable, was it really their role to "find" the lady in Philadelphia? Are you substituting yourselves for the welfare department?

The plight of the 72-year-old widow in Philadelphia was brought to the attention of the local program by her neighbors, who were concerned about her well being. Not to have provided assistance due to bureaucratic deference could possibly have resulted in more serious injury or death. The fact remains

that legal services were available to secure fuel assistance to which she was legally entitled.

QUESTIONS SUBMITTED BY SENATOR DALE BUMPERS

1. In FY 1981, the Legal Services Corporation received an appropriation of $321 million, but as you've noted in your prepared statement, in FY 1982 you received only $241 million (or $120.5 million for the life of the continuing resolution which expires on March 31, 1982). I know you've explained in your prepared statement what steps have been taken to provide legal services to as many persons as possible even with the budget cuts, but I'm interested in where these reductions have been made. For instance:

(A) What types of cases have you quit handling?

(B) Do you have any estimate on the number of cases turned away?

(C) Have cutbacks been made in rural areas as opposed to urban areas?

(A) The Corporation has not imposed restrictions as to the type of cases grantees should reject as a result of budget reductions. Rather, retrenchment decisions are made locally by the board of directors of each program. In many instances, grantees have limited intake except in emergency situations.

(B) In 1981, approximately 1.5 million cases were closed by legal services programs. These figures do not reflect the impact of budget cuts made during the last quarter of 1981. Local programs have at least 25% less money to provide service in 1982 than in 1981. As a result, programs have initiated major staff reductions, office closings and cutbacks in community outreach efforts. While our best estimates indicated that legal services programs were able to serve approximately one in every five clients with legal problems in 1981, we know

that in 1982, local programs will be able to do even less. We cannot, however, provide you with exact numbers at this time.

(C) With the exception of Native American and Migrant Programs, all grantees received a 25% reduction in their 1982 grants. These reductions applied to programs in rural areas as well as those in urban areas.

2. What has been the response of the private bar to the budget cuts made in the Legal Services Corporation? Have members of the private bar picked up most of the slack or are many clients simply falling through the cracks?

In many areas, bar associations and individual attorneys are working closely with legal services programs to help address the crises brought on by the reduction in Corporation funding. This includes not only the development and expansion of pro bono efforts to serve clients, but donations of resources and joint efforts to raise funds from other sources as well. In October 1981, the Corporation's Board of Directors imposed a requirement to increase private attorney participation by legal services programs. Each local program in 1982 must utilize a substantial amount of its annual grant (as a guideline, 10 percent) for private attorney participation within each program's service area.

The Corporation and the American Bar Association have encouraged private bar participation for years because the money appropriated by Congress -- even at the peak of $321 million in 1981, met only a fraction of the need for legal services. The response of the bar is commendable and gratifying. It cannot, however, pick up slack left by budget reductions and increased costs. Many -- too many -- clients are falling through the cracks.

3. The President's FY 1983 budget proposes that the Legal Services Corporation be eliminated and that no additional funding be provided after the current continuing resolution expires. Assuming for the moment that these changes are made, will you have any unobligated funds at the end of this month? If so, how much? It seems to me that if the President's recommendations were accepted by the Congress that you and your attorneys would simply have to walk away from pending cases, creating a chaotic situation for your clients and the judicial system.

As you know, funds appropriated to the Corporation are fully obligated until expended. The Corporation has also made annual grants to its programs obligating the great proportion of appropriated funds. Legal services are unique in many regards -- and an important one is that it is often a service that continues over time. It is not possible to simply stop cases at the end of the month. Careful close-out planning is required.

4. The $265 million you've requested for FY 1983 is an increase of $24 million over the FY 1982 level. Is this increase due strictly to pay costs or are there any proposed programmatic changes?

The $24 million or ten percent increase was requested to cover increased costs due to inflation and to protect programs against further erosion in their service capacity. It is strictly to pay costs, not for any new initiatives.

5. While on the subject of pay, what's the average salary of a LSC attorney? How many cases does he or she handle in the course of a year?

The average salary for a local staff attorney is $17,777. Supervising and managing attorneys average $24,000, while program directors average $32,258. Exact case loads per attorney are difficult to determine due to differences in locale, poverty population, type of program and, most important, program priorities. However, based on the number of cases handled and the number of staff attorneys in fiscal year 1981, we found that the average number of cases handled per staff attorney approximated 370.

6. The minimum access plan was designed to have two LSC attorneys for every 10,000 poor persons. You've stated in your prepared statement that it is considerably below that. What are the most current figures you have available?

We have done everything possible to preserve the basic integrity of the minimum access plan. As programs have been forced to cut back, we have insisted that all areas of the country continue to be served, albeit in the most minimal fashion. Because of budget reductions, we are no longer able to afford the equivalent resources of two attorneys for every 10,000 poor persons. Our per capita funding formula was dropped from $8.23 per poor person in 1981 to approximately $6.20 this year. This amount barely supports one attorney for every 10,000 poor persons.

7. Have you noticed an increase in caseload since the passage of the President's budget cuts last summer and, if so, in what areas of litigation?

As I mentioned in my testimony, many more people are seeking legal assistance than ever before. The critical changes in so many governmental programs and the increasing number of newly poor persons and families -- the unemployed -- has drastically increased the demand. Legal issues related to the changes, as well as those unfortunately associated with unemployment, are the primary areas we are handling.

SUBCOMMITTEE RECESS

Senator WEICKER. The subcommittee will stand in recess until 9:30 Tuesday.

[Whereupon, at 10:35 a.m., Friday, March 12, the subcommittee was recessed to reconvene at 9:30 a.m., Tuesday, March 15.]

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

TUESDAY, MARCH 16, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:38 a.m., in room S–146, the Capitol, Hon. Lowell P. Weicker, Jr., (chairman) presiding.

Present: Senators Weicker, Laxalt, and Bumpers.

DEPARTMENT OF COMMERCE

STATEMENT OF MALCOLM BALDRIGE, SECRETARY OF COMMERCE

ACCOMPANIED BY:

JOSEPH R. WRIGHT, JR., DEPUTY SECRETARY
IRVING P. MARGULIES, DEPUTY GENERAL COUNSEL
JOHN V. BYRNE, ADMINISTRATOR, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
ARLENE TRIPLETT, ASSISTANT SECRETARY FOR ADMINISTRATION
PAUL A. VANDER MYDE, ASSISTANT SECRETARY FOR CONGRESSIONAL AFFAIRS
NANCY A. RICHARDS, DIRECTOR, OFFICE OF BUDGET

BUDGET REQUEST

Senator WEICKER. Our first request is that of the Department of Commerce. The amount requested is $1,509,783,000, a decrease of $347,327,000 from the 1983 base and provides for 22,254 permanent positions.

Appearing on behalf of this request is Malcolm Baldrige, Secretary of Commerce, who is accompanied by Joe Wright, Deputy Secretary; Arlene Triplett, Assistant Secretary for Administration; Paul A. Vander Myde, Assistant Secretary for Congressional Affairs; and Nancy A. Richards, Director, Office of Budget.

Mr. Secretary, we are pleased to hear your request.

Secretary BALDRIGE. Senator Weicker, members of the committee, I am pleased to appear before you today to lead off discussions of the 1983 budget proposals for the Department of Commerce. We are requesting approximately $1.4 billion in budget authority for Commerce programs, 21 percent below the 1982 level and nearly 40 percent below

the Carter proposal for 1981. Our total employment will also continue to drop. By the end of 1982, we will have reduced employment 13 percent from the 1981 Carter budget. The 1983 employment target of 33,795 will bring the cumulative reduction to 16 percent. These numbers are exclusive of the administration's proposal to transfer Department of Energy programs to us. I will discuss this proposal later.

We are concentrating our efforts in those areas with the highest priority for this administration and the greatest payoffs for Federal activity. We can carry out what truly needs to be done for the commerce and business community and the American people within budget levels that are much lower than in the past.

I know that you will be discussing the details of the 1983 Commerce budget proposals with the witnesses who follow me, so I don't want to spend time on that this morning. I would prefer to tell you what we have been working on in this first year, the results we have achieved and where we are going.

First, I think we can accurately describe the Commerce Department as a stronger organization today—with a greater policy role—than it has been for a good deal of its history. This is largely because the President specifically wanted a stronger Department, and we have made some real progress toward carrying out his wishes.

One of the ways the President has shown his confidence in the Department is in the makeup of the Cabinet council system of Government. As the Commerce Secretary, I am chairman of the Cabinet Council on Commerce and Trade, and I am on the Cabinet Council on Economic Affairs, an advantage my predecessors didn't have, and should have had. I am also on the Cabinet Councils on Natural Resources, on Food and Agriculture and on the newly formed Legal Council. Those seats give the Department the high-level involvement it needs to be part of the decision and policymaking process on all matters affecting commerce and trade, and a real voice for the business community to be heard. And that does not mean I parrot what the business community says, because I don't always agree.

Inside the Department we have also made some real changes. First, it was such a conglomerate that the management span of control was too wide. Right within the Office of the Secretary we have eliminated the ineffective secretarial representatives program, some 36 positions. The Deputy Secretary and I are operating our own offices with 14 fewer people than our predecessors. We are working on a shorter tether to concentrate more effectively on the areas of greatest importance in our new role—international trade and economic affairs.

The Maritime Administration was transferred to the Transportation Department, whose experience in regulated and subsidized transportation makes it the natural lead agency in this area. We took the responsibility for automobile industry policy from them.

Economic affairs has been strengthened. We have reorganized the programs reporting to the Assistant Secretary for Economic Affairs to upgrade our economic analysis capability. Before I came, Commerce had an overall policy office reporting to the Secretary and the Bureau

of Economic Analysis, the Bureau of Industrial Economics, the Bureau of the Census, all with great statistical and data-collecting ability, reporting to the Chief Economist. We now have combined the policy and economics areas. I could not imagine one without the other.

In Government, a lot of economic decisionmaking takes place at a high level of generality. Decisions are made on how they will affect the economy overall, without much thought about how they will affect specific industries.

But the Government has got to get smarter in its economic decisionmaking. It needs more facts on how proposals affect industries differently. So one of our priorities is to increase the Department's capability to provide much better sectoral information, to get the industry-by-industry implications of major new proposals needed for Federal Government decisions.

We are also starting a competitive assessment project to provide a look 5 and 10 and 20 years out on various domestic industries compared to their counterparts worldwide. We want a better idea of how Federal policies, laws, and regulations affect these industries. We want to identify the old policies or programs that are acting as barriers to operations of the marketplace.

We are taking on both the sectoral analysis and the competitive assessment tasks without additional resources.

We are also strengthening our support of international trade. We have got to improve our exporting capabilities, and exporting is a cornerstone of the President's economic recovery program. We do not use the resources of our small- and medium-sized businesses as our foreign competitors do. Exporting is responsible for one out of eight manufacturing jobs in this country and the worldwide competition is becoming more intense every year. Let me just hit a few of the things we are doing internally for better management of our export programs.

U.S. TRADE

We are realining functions in our International Trade Administration to establish clear lines of responsibility and accountability, which we did not have before. That will enhance each manager's authority and potential contribution. Within a year we will have as much as one-half our Foreign Commercial Service people around the world coming from a business background instead of a straight Government background. I asked and received Secretary Haig's support to emphasize to all our ambassadors that trade is an important part of their responsibility and will be part of the evaluation of their performance. Every one of the ambassadors I have directly worked with—and that would include 15 to 20 at this point—has been outstanding in his cooperation and his desire to further U.S. trade goals. All of these actions are improving ITA's effectiveness within Government and with the private sector.

The Foreign Commercial Service is representative of the changes we are making in other areas.

FCS headquarters and posts last year initiated closer working relationships with American chambers of commerce abroad, especially in West-

ern Europe, Asia, and Latin America. That included a joint assessment by the FCS and the American chambers on the role the chambers want the FCS to play on behalf of American interests abroad.

FCS also is completing a recruitment program to identify, from more than 1,000 applicants, 200 qualified candidates. Those 200 will participate in daylong assessments, the final step in the selection process. Approximately 70 percent of these candidates are now employed in the private sector and have strong international marketing experience—the type of people we have to get involved in Government. FCS expects to pick 25–30 career candidates from these finalists.

We want to continue to improve the FCS in 1983 through a series of proposals for which we are requesting an increase of $4.5 million. This year we have begun an intensive course in foreign market analysis for every FCS officer. Besides this program, we need to develop additional training and career development programs that will enable all FCS officers to acquire language and management skills. The FCS needs more staff in key countries to take advantage of the trade opportunities opening up under the MTN agreements.

Another major management improvement lies in the export license backlog. When we came in January 1981, the backlog was more than 2,000 cases, including some that had been pending since 1979. This backlog has been eliminated. Processing of licensing applications—probably for the first time—now takes place within the time limits established in the Export Administration Act.

OTHER AREAS OF IMPROVING COMPETITIVE POSITION OF U.S. BUSINESSES

The Department is working toward improving the competitive position of American business in other areas such as the National Bureau of Standards, which is working on measurement services to improve the quality and reduce the costs of manufacturing and testing very large-scale integrated circuits. We expect this measurement technology will make U.S. manufacturers more competitive in the semiconductor market. NBS is also building a small, experimental automated manufacturing research facility. In operating this facility, NBS will be able to solve measurement problems in both automated machines and the parts they produce.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

We have also begun to focus the resources of NOAA on solving economic problems, and I think we are making some real progress in this area. Several of NOAA's ocean programs demonstrate this.

During 1981 the Gulf Regional Fishery Management Council proposed a fishery management plan which included regulations to close the Texas shrimp fishery for a period of time. I might add, this is a very controversial subject at this time. These regulations allowed young shrimp to mature before commercial harvesting. The result is a net gain of $22.3 million, or 29 percent, in the seasonal harvest of Texas shrimp.

The National Ocean Survey at NOAA is developing a system for sending tide level data in real time to ship operators and shore stations.

Commercial shipping interests in New York believe that the data will provide substantial savings for shipping operators and make the Port of New York more competitive in international trade. We anticipate signing a cooperative agreement with the State of New York this month for a 1-year pilot program that could become a model for other major ports. Last August NOAA assisted in the discovery of a large deposit of polymetallic sulfides at an ocean floor spreading center near the Galapagos Islands. This deposit contained strategic metals—zinc, copper, gold, nickel, cobalt, and platinum—with an estimated value of $2 billion. NOAA proposes to survey similar ocean spreading centers within 200 miles of the U.S. coast to assess the presence and value of likely polymetallic sulfide deposits. A secure source of the supply of strategic metals is critical to this Nation's high technology-oriented society.

We have also been making important strides in improving the National Weather Service. We intend to add an advanced atmospheric sounder on GOES satellites in 1984. The resulting increases in accuracy will decrease the size of areas placed under "weather watch" advisories and help forecasters distinguish between ordinary and storm-producing cloud conditions. NOAA is also proposing a new satellite weather information system which will display and animate satellite data and combine it instantly with data from other sources.

Our ongoing efforts to modernize the Weather Service are also making progress. The NEXRAD advanced radar development effort is now in the system definition phase. Progress in the automation of field operations and services project has been particularly significant. In tests conducted in the central and western regions last August, AFOS surpassed all pre-established pass-fail criteria by very significant margins. Finally, NWS has drafted a preliminary plan to restructure its field operations to improve forecast and warning capabilities. This, we expect, will result in considerable improvements in timeliness and accuracy of forecasts and warnings.

Let me cite one more example in NOAA, one which complements the economic analysis improvements I have already mentioned. The environmental data and information service is issuing detailed assessments of major climate variations on industrial productivity. These studies help us understand the economic effects of past climate changes and—more importantly—to help industries adjust to unusual conditions as they develop. Recent products include a detailed analysis of the 1980 heat wave and drought, which brought $15 to $20 billion in economic damage, and biweekly reports on the impact of this winter which, it appears, had caused as much as $7.8 billion in damage by February 8.

MANAGEMENT SYSTEM IMPROVEMENTS

We have been pursuing these programmatic objectives while also making major improvements in our management system.

In my first month as Secretary, I established the following major priorities for the Department: Increase America's competitiveness in the world economy; stimulate economic recovery and growth; manage effectively the oceanic and atmospheric resources of the United States; and improve service delivery and internal management.

We now have a management system which allows us to track over 200 objectives and projects in pursuit of these priorities every 3 months. With this system, we have established accountability with all of our senior managers for accomplishing very specific departmental goals. And, most important, bonuses for the senior executive service and merit pay are being tied to performance of these objectives.

FINANCIAL ASSISTANCE PROGRAMS

We have also established better control of financial assistance programs. A financial assistance review board looks at all grants, loans and loan guarantees, and cooperative agreements. In its first year, this review process has saved $10 million through withdrawn or disapproved awards. With the help of the Inspector General, we have made sure that no additional funding was extended to grantees until all audit issues were satisfactorily resolved and previous debts satisfied. This has already lead to a $20 million savings through cost avoidance.

Unresolved audit reports are of serious concern to the Congress and to the administration. As of last March, the Department had a backlog of 1,000 audit reports which questioned costs or management recommendations which were still unresolved after 6 months. We expect to be at or very near a zero position at the end of the month.

We have taken steps to reduce administrative overhead positions by 27 percent throughout the Department. Most of these savings have been converted to direct program efforts so that we are getting more productive use of our resources.

ADMINISTRATIVE CONSOLIDATION

We are in the process of consolidating major administrative systems. The Department has had five payroll systems—by the beginning of 1983 we will have one. We now pay bills in 28 separate locations; in 1983 we will pay all bills from one.

This Department is managing a portfolio of over $1.8 billion in direct and guaranteed loans. We have initiated aggressive debt collection procedures to assure prompt repayment of loans and other debts owed the Department. Our new 1982 collection goal of $171 million is $30 million or 21 percent over the previous estimate. And we are right on target now on reaching that goal.

These past 13 months have set the framework for our future actions. We still need to make a lot of improvements in order to accomplish the ambitious set of goals and objectives we have adopted. I am not satisfied yet.

DEPARTMENT OF ENERGY TRANSFER

The President recently proposed moving most of the Department of Energy's functions into the Commerce Department. Our Department is a key agency in formulating domestic and international economic policy, and moving Federal energy programs to Commerce places energy issues squarely in the national economic context. Commerce also has long experience in administering separate technical and research agen-

cies. That expertise will strengthen the management of core energy activities. We are talking about a major management task when it comes to the Department of Energy, and the Commerce Department has proven that it can handle that responsibility.

Let me call your attention to two more programs where we are requesting additional resources.

PATENT AND TRADEMARK SYSTEM

When I testified last year, I said that strengthening the patent and trademark system was going to be one of our top priorities. We now have a plan which will produce badly needed reductions in pendency. If the Congress will support us with program expansion financed by increased cost recovery through fees, we will be able to reduce patent pendency to 18 months by 1987. Trademark pendency would come down to 13 months by 1985. With these budget and fee proposals, we would reach optimum pendency times as quickly as possible consistent with hiring and training large numbers of new examiners.

MINORITY BUSINESS DEVELOPMENT AGENCY

The 1983 budget also shows the administration's strong commitment to insure that minority-owned businesses have an equal opportunity for development. In Commerce, we are proposing to fund the Minority Business Development Agency at a program level of $60 million for 1982, 1983, and 1984. This is $13 million over the level they spent in 1981. MBDA will focus on private sector market opportunities. At $60 million, we will be able to provide high quality consulting services to minority-owned businesses in 90 metropolitan areas across the country, where almost 80 percent of such firms are located.

WEATHER STATIONS

I would like to mention one change from the budget as submitted. The administration had originally proposed to close 45 additional weather stations, including 25 full-time forecast offices. We have now concluded that it is premature to make these reductions in the current forecast structure. In the long run, we will have to make major changes in the way weather forecasts are delivered—changes that reflect state-of-the-art weather and communications technology. But we are not there yet, and closing so many stations would put strains on the remaining 204 stations operating with current technology. So we have decided to reinstate funding for all 45 stations and to propose other sources of savings in National Weather Service operations. A formal letter will be transmitted to you shortly explaining the requested change.

This concludes my prepared statement. My colleagues and I will be pleased to answer your questions.

Senator WEICKER. Mr. Secretary, last evening I received a response from the Comptroller General to my inquiry of February 26, 1982, concerning the actions by the Department in obligating funds under the fiscal year 1982 general administration appropriation at a level higher than that approved by the Congress. And I submit the letter for the record.

[The information follows:]

LETTER FROM MILTON J. SOCOLAR, COMPTROLLER GENERAL OF THE UNITED STATES

March 15, 1982

The Honorable Lowell P. Weicker, Jr.
Chairman, State, Justice, Commerce,
the Judiciary and Related Agencies
Subcommittee
Committee on Appropriations
United States Senate

Dear Mr. Chairman:

This is in reply to your inquiry of February 26, 1982, concerning the legality of actions by the Department of Commerce in obligating funds under its fiscal year (FY) 1982 General Administration appropriation at a level apparently higher than that approved by the Congress.

In preparing our response we have examined the statute and bill which establish FY 1982 funding levels for Commerce, the related legislative histories, and the materials provided with your letter. We were unable to obtain formal comments from Commerce because of the limited time available for our response. We did, however, receive informally from Commerce some explanatory materials and a copy of a November 25, 1981, memorandum prepared by its Deputy General Counsel, entitled "Reprogramming of Appropriated Funds." (Copies enclosed)

On the basis of our analysis of these materials we conclude that the budgetary actions taken by Commerce constitute illegal transfers of funds from appropriations for its bureaus and offices to its General Administration appropriation. These actions also constitute improper augmentations of the General Administration appropriation. These conclusions are discussed in detail below.

BACKGROUND

Appropriations for Commerce for FY 1982 are currently contained in section 101(h) of Pub. L. No. 97-92, 95 Stat. 1183, December 15, 1981, the Joint Resolution making further continuing appropriations for FY 1982. Section 101(h) makes available to Commerce:

> "* * * such amounts as may be necessary for projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriation Act, 1982, at the rate provided in H.R. 4169 as passed the House of Representatives on September 9, 1981, and under the authority and conditions provided in the applicable appropriation Act for fiscal year 1981, * * *"

Title I of H.R. 4169, as it passed the House, provides Commerce with $28,407,000 for General Administration. (Although it has not passed the Senate, H.R. 4169 as reported by the Senate Appropriations Committee provides the same level of General Administration funding.) The provision is a lump sum for "expenses necessary for the general administration of the Department of Commerce, including not to exceed $2,000 for official entertainment."

These funds are appropriated for the operation of the Office of the Secretary and for Department-wide functions. As set forth in the Appendix to the Budget of the United States for FY 1982, these expenses include the executive direction of Commerce ("formulation of Government policy on matters affecting programs and functions assigned to the Department, and executive direction of the Department"); Departmental staff services (general management and administration of the Department in budget and program evaluation, civil rights, personnel, and policy development, among others); and a reimbursable program for certain centralized services billed to users (communications, rent, printing and reproduction, etc). The same categories of expenses are enumerated in the FY 1983 Budget for General Adminis-

tration, which is evidence that Commerce did not intend a major realignment of its staff allocations in either fiscal year.

Another expression of the intended purpose of the General Administration appropriation is seen in the House report accompanying H.R. 4169, which states:

> "The bill includes $28,407,000 for 'Salaries and Expenses' to provide for the Office of the Secretary and Assistant Secretaries and the staff offices which assist in the formulation of policy, general management, and administration of the Department of Commerce." H. Rept. No. 97-180, 97th Cong., 1st Sess. 8 (1981).

We have ruled that statements in the budget and in committee reports are not legally binding on the authority of an agency to allocate lump sum appropriations. 55 Comp. Gen. 307 (1975). However, such expressions are binding to the extent that they indicate the purposes for which a lump sum appropriation is available. In this case, the budget submission and committee report indicate precisely what Congress meant by "expenses necessary for the general administration of the Department of Commerce."

In addition to the General Administration appropriation, the Congress also makes other appropriations for Commerce. Each of the bureaus or offices in the Department receives an appropriation either for its salaries and expenses or for the necessary expenses of administering its programs. In the absence of the General Administration appropriation these individual bureau or office appropriations would probably be available for the bureau or office pro-rata share of Department-wide expenses. However, as we have indicated, the General Administration appropriation is specifically available for such expenses as the costs of the offices of the Assistant Secretaries, personnel policy and services, and the Office of Secretary share of Department-wide reimbursables, and historically has been charged with all of these expenses.

The funds appropriated for General Administration for FY 1982 represent a substantial reduction of approximately $5.6 million from funds available for obligation for FY 1981. Such a sizeable reduction in appropriations would appear to require a parallel reduction in employees and services from their FY 1981 levels. In fact, in materials provided by your staff, Commerce has stated that some drastic personnel cuts would be necessitated by the funding reduction, including "[a]t least half of the management staff" and "[a]t least 38 percent of the Inspector General" staff.

Despite these representations, these draconian measures have not been undertaken, and Commerce has instead implemented a plan under which it continues to operate the activities of the Office of the Secretary at the level requested by the Administration rather than at the level approved by Congress in Pub. L. No. 97-92 (i.e., without absorbing the $5.6 million reduction). From materials provided by Commerce, it is clear that this has been accomplished by transferring the costs of certain General Administration functions to the appropriations of individual bureaus within Commerce.

As described by Commerce, the following steps have been taken:

> "Pending completion of the 1982 budget process and after consultation with our General Counsel, the Bureaus were requested to pay for services which heretofore were funded by the Office of the Secretary. These services and the basis for their allocation were:
>
> "a. The Costs of Assistant Secretaries and their immediate staffs..... $1,200,000
>
> The Bureaus are being charged on the basis of actual 1982 costs.

"b. The Office of Personnel Policy.....$1,300,000

This Office provides Department-wide interpretation and policies on such matters as position classification and standards, and implementation of Civil Service Reform. The charges were allocated on the basis of full time equivalency of each organization served.

"c. Special Projects.....$ 700,000

There are a number of projects which benefit the component organizations. The billings are based upon our best estimate of the benefits to be derived by each of the Department's organizations. Normally, the Office of the Secretary contributes to the cost of these projects. Because of the reductions in the appropriation and because these projects are considered important enough to continue, the Bureaus' share of the costs were increased.

"Reimbursable agreements have been prepared with each Bureau on all of the above activities. * * * The Bureaus will be billed only for the actual costs of the services received. Upon enactment of the supplementals, the Bureaus will be paid back for most of the costs they have incurred."

It is clear from this document that costs formerly paid by the Office of the Secretary have been billed to the bureaus, and that they in turn are committed to providing reimbursement to the Office of the Secretary.

DISCUSSION OF APPLICABLE LAW

In his November 25, 1981, memorandum, the Deputy General Counsel of Commerce correctly cited the two statutory provisions that compel the conclusion we have reached in this matter. We agree that, "a basic tenet of the law governing appropriations is the requirement that appropriations must be expended for the purposes and objects for which they were appropriated." See 31 U.S.C. § 628. We also agree that "[f]unds may not be transferred between these lump sum appropriations, except by specific legislation." See 31 U.S.C. § 628-1. Our views diverge however, on the correct application of these principles to the facts of this case.

The Deputy General Counsel, in his analysis, appears to consider the cost reallocations described above as mere technical billing adjustments of no legal significance, which do not involve a transfer of funds between the General Administration appropriation and the bureau appropriations. He does correctly observe that no reprogramming has occurred, since that term applies only to transfers of funds between authorized activities within a lump sum appropriation, which is not the case here. However, he apparently fails to appreciate that these cost adjustments will result in a transfer of funds between two distinct lump sum appropriations.

In essence, by using formal reimbursement agreements to charge a bureau account for salaries and expenses formerly charged to the General Administration account, Commerce has effected a transfer of funds from the bureau appropriation to the General Administration account. Under 31 U.S.C. § 628-1, such a transfer is permissible only when authorized by statute.

We realize that the so-called Economy Act, 31 U.S.C. § 686, authorizes transfers of funds between appropriations as reimbursement for services performed by one agency, or organizational element of an agency, for another. However, the Economy Act is applicable only when there is no other statute which specifically appropriates money for the provider agency to render the service in question to the requesting agency. See 59 Comp. Gen. 415, 416 (1980). In this case, as we have indicated, General Administration funds are specifically available for the provisions of all those services it historically has provided, and still is providing, to the bureaus. Thus, the Economy Act may not be used as authority for the trans-

fers Commerce is implementing. Further, because we are unaware of any other statutory authority that Commerce has to effectuate transfers between appropriations, we must conclude that the Commerce actions violate 31 U.S.C. § 628-1 and are thus unlawful.

In addition, this Office has long held that an appropriation for a specific purpose is available for that purpose to the exclusion of any appropriation which might otherwise be available for the same or a compatible purpose. E.g., 36 Comp. Gen. 526, 528 (1957); 19 Comp. Gen. 324, 326 (1939); 10 Comp. Gen. 440, 442 (1931). Thus, once the specific appropriation for a purpose is exhausted, no other appropriation may be used for that purpose. 36 Comp. Gen., supra; 10 Comp. Gen., supra. In our opinion, the existence of the General Administration appropriation, specifically available for department-wide administrative functions, precludes the reallocation of these expenses to the appropriations of the bureaus which might otherwise be available for these purposes. If FY 1982 funds for General Administration are, in fact, insufficient, Commerce may not dip into bureau appropriations to make up the difference. By doing so, Commerce is improperly augmenting the appropriations provided by Congress for General Administration functions of the Department.

In your inquiry you also asked us to determine whether these recent budget actions by Commerce are in violation of the Antideficiency Act, 31 U.S.C. § 665. That Act prohibits any Federal officer or employee from authorizing the obligation or expenditure of funds in excess of the amount of appropriations available.

We do not have sufficient information about the funds currently available to Commerce to determine whether such violations may have occurred, and, therefore, we do not wish to speculate on a matter of this seriousness. However, if by the end of the fiscal year Commerce has not reduced its General Administration expenses, and if no supplemental appropriations have been enacted, it seems certain that an Antideficiency Act violation will have occurred.

We are aware that by the transfer actions discussed above Commerce hoped to avoid or minimize the need to impose reductions in force or furloughs on the employees compensated under the General Administration appropriation. However, by forcing the bureaus and offices to take on substantial expenses for which they had not budgeted, the Commerce action may require the bureaus to reduce their own expenditures through extensive staff reductions.

We trust that this information will be helpful to you.

Sincerely yours,

for Milton J. Socolar
Comptroller General
of the United States

LEGALITY OF TRANSFER OF FUNDS TO GENERAL ADMINISTRATION

Senator WEICKER. The Comptroller General concludes:

> On the basis of our analysis of these materials we conclude that the budgetary actions taken by Commerce constitute illegal transfers of funds from appropriations for its bureaus and offices to its general administration appropriation. These actions also constitute improper augmentations of the general administration appropriation.

Upon our receiving this letter, I had it delivered to the Department, and it is probably as good a time as any for you to comment on the context of the letter.

Secretary BALDRIGE. Well, before we adopted the method we did, Mr. Chairman, I went to our Deputy General Counsel who assured me that what we are doing is not an illegal transfer of funds. I am not a lawyer.

I do have the Deputy General Counsel, Mr. Margulies, here and I would like to ask him to explain the basis for this position if you desire.

Senator WEICKER. I will be glad to have him respond.

I might add as a second matter which was raised in our letter:

> In your inquiry you also asked us to determine whether these recent budget actions by Commerce are in violation of the Antideficiency Act. That act prohibits any Federal officer or employee from authorizing the obligation or expenditure of funds in excess of the amount of appropriations available.
>
> We do not have sufficient information about the funds currently available to Commerce to determine whether such violations may have occurred, and, therefore, we do not wish to speculate on a matter of this seriousness. However, if by the end of the fiscal year Commerce has not reduced its general administration expenses, and if no supplemental appropriations have been enacted, it seems certain that an Antideficiency Act violation will have occurred.

Secretary BALDRIGE. Why don't we have the Deputy General Counsel comment on it. Before he does, we only have a continuing resolution now in the 1982 budget process and that is why we are asking for the money.

Mr. MARGULIES. We received this late yesterday evening and I have gone through it now. It would be worthwhile to narrow the differences between us. You will notice that the opinion does point out that they agree with us there was no reprograming involved here.

Two new issues are raised by this opinion. The first one is an assertion that if the bureaus use administrative money that has been given to them by Congress for activities which could have been paid for out of the general fund, that would be an improper use of funds under 31 United States Code section 628. I think that is an erroneous statement. It is a question that we will ask the Attorney General to advise us on.

I have no quarrel with the statement that if our expenditures exceed the amount of money available to us we will violate the Antideficiency Act. The real issue is whether or not money that is available to the bureaus to purchase services, which we will bill to them because we provide those services out of our funds, is improperly used when used to reimburse us in that way. It is a question where reasonable men can differ.

We will ask the Attorney General to advise us.

Senator WEICKER. In other words, what you are telling me, that you are trying to appeal the Comptroller General's opinion.

Mr. MARGULIES. This is an advisory opinion to you. This opinion raises for us the question whether the action we propose is proper. We have a duty to ask the Attorney General whether we would be acting properly under 31 United States Code 628.

Senator WEICKER. Let me say that the Comptroller General is not under the aegis of this committee. I would suggest that the matters raised in that letter are serious enough to warrant an immediate resolution of this problem. If somebody stands up there and says "no," then I suggest now you are walking on pretty thin ice. I look forward to your request to the Attorney General. In the meantime, the actions of the Appropriations Committee will be guided by the Comptroller General.

Do you plan to wait for a response from the Attorney General or do you plan to fully reimburse the bureaus for funds that have been transferred since the beginning of the year?

Mr. MARGULIES. We would be working under a billing arrangement. There has been no transfer of funds. My understanding is that no transfer of funds has yet been made by the bureaus.

Senator WEICKER. Do you intend to hold your practice in abeyance until you get a ruling from the Attorney General?

Mr. MARGULIES. That is a question for the Secretary. I would not recommend it.

Senator WEICKER. You don't feel this is in the nature of a warning?

Mr. MARGULIES. I think this is an advisory opinion to you.

Senator WEICKER. It is not me that is doing this; it is you.

I didn't write this letter. I made a request from someone independent of both your agency and my committee to deliver an opinion as to what it is you are doing. You might consider it a warning and not being applicable to your situation, that is your privilege. But I would only advise you that the current practice illustrated in the letter best be held in abeyance until this matter is resolved because if it isn't, and you don't get the kind of answer you are looking for from the Attorney General, you are going to have to close down the Department here for a period of time.

I am just recommending, as a matter of good practice, we both have this letter in hand, we both received it within hours—it could be that I am wrong, but to just go ahead and ignore the Comptroller General of the United States, is taking a lot on your shoulders.

Mr. MARGULIES. I would not recommend that we ignore it. I do recommend that we take the advice of the Attorney General.

REDUCTIONS IN THE OFFICE OF THE SECRETARY

Mr. WRIGHT. May I explain, because it may sound like we are not doing anything to try to get down to the funding level. One of the things that the Secretary did when he first came in was very clearly stated, to reduce the size and the expense of the Office of the Secretary. We were running, when we came in, around $37 million on an annual funding rate and within the first several months the Secretary reduced

$968,000 out of that figure. We have eliminated the entire Office of Program Coordination, reduced the entire Office of Policy Development, reduced the number of temporary employees substantially, cut consulting, and the next step we took was to eliminate special initiative funds. The Secretary of Commerce before him had $2 million and we reduced that to zero. He reduced the training for the entire Office of the Secretary by 50 percent, which is $250,000. We have since then further reduced travel by $700,000. And what we are doing is struggling to get down to the lower level. But we can only do that over a certain period of time without giving up the responsibility which we have to effectively manage the Department.

I respectfully say we have not had enough time to do more than that without stripping the entire Office of the Secretary as well as controls that Secretary Baldrige put in. It is not that we are doing nothing. We have done more than any of the Cabinet departments in the Office of the Secretary.

Senator WEICKER. In any event, I think my concern is that a committee of Congress now stands with specificity in their action on this line item. What worries me, as we move into a new budget, is establishing principles to go around what the Congress did.

I just want to make certain that we all understand the ground rules. It is not my desire to see anybody get into trouble over this, but clearly if I ever saw a red flag raised, it is this. The Comptroller General is not under my committee by a long shot. He has made his statement. And if I permitted that action to go on in light of his statement, I would be derelict in the performance of my duty as the chairman of this appropriations subcommittee.

I repeat, I am satisfied there is no reason in the world why you couldn't, I have no problem with that, but I wouldn't do what you are doing now until this thing gets resolved to a finer degree than is the case at this moment.

CONSOLIDATION OF FUNCTIONS WITHIN DEPARTMENT

Mr. WRIGHT. I agree with you, Mr. Chairman, in one way, but if I can, I also disagree with you. We take those responsibilities very seriously. But we also take very seriously our responsibility to effectively manage the Department. If we would go from a 1981 level of $36 million down to $28 million, you are talking about a 20-percent reduction. When we first came in, Mr. Chairman, we had over 1,000 unresolved audits outstanding which, for whatever reasons, resources, lack of attention, the management of the Department was not considering to be as important to the former Secretary as to Secretary Baldrige.

We have a portfolio in EDA that is 40 percent delinquent. We had seven different financial accounting systems. We were paying payroll from 28 different locations. We are trying to consolidate these and to substantially improve the Department. But to take a 20-percent cut in 1 year when we are trying to do that is certainly beyond my ability and any of the people that report to Secretary Baldrige—trying to do it that fast.

Senator WEICKER. There are a lot of people in here who are going faster than that. Some of them are going out of business. I appreciate your problems, but those are problems that the administration has created up and down the line.

We are working on a new budget and I am not saying that these matters can't be resolved. The fact is that your Department and the policies of your Department are run not only by the Secretary but by the Congress of the United States.

So, my only comment on the matter, having just received the letter myself, is that it raises very serious questions that the committee is going to have to stay with until one way or the other this matter is resolved. But having a letter in hand at this juncture, I can't just say, that is their opinion, so far as we are concerned it is done. I can't do that. I just can't do that.

Mr. WRIGHT. Mr. Chairman, we have no intention of doing anything illegal. That is not our purpose. But what I would ask you to do is take a look at the way we have managed the Department, take a look at the way we have improved it, and take a look at what the effect would be if we were to hold that lower funding level.

Senator WEICKER. What I am saying, that is a matter to be resolved before we resolve the new budget.

But what I will not allow to stay is the precedent. What we are trying to do is to make sure that this precedent doesn't sit on the books. I am not going to allow what has been done in the last budget to become de facto legal and continue in the budget.

COMMUNICATION BETWEEN COMPTROLLER GENERAL AND COMMERCE

Senator LAXALT. I saw this letter for the first time here. Have the people in the Comptroller General's office been in touch with your people?

Mr. MARGULIES. We were called about 5 o'clock yesterday and told that this opinion would be given to this committee, but that Mr. Socolar was not free to send it to us. Subsequently, a staff member of this committee gave it to us.

Senator LAXALT. So they are now asking Congress to examine the matters which you handle.

Mr. MARGULIES. They asked information from our budget people.

Senator LAXALT. I would hope so.

Ms. TRIPLETT. That is correct.

Senator LAXALT. Were they there for an extended period of time?

Ms. TRIPLETT. They have not come in. They have asked for documentation on how we were handling the situation. It was over the phone. They did not come in and investigate or meet with me or anything of that nature.

Senator LAXALT. A letter of this import was handled in a near perfunctory fashion, is that what you are telling me? There was a phone conversation concerning some of these matters resulting in this kind of letter from the Comptroller General?

Ms. TRIPLETT. The controller of my staff is the individual that has been working with the General Accounting Office on this is here—is there anything more that you want to say?

Mr. NATHAN. They called and asked me for two things: One, the description of what we are doing, and second, a copy of the General Counsel's legal opinion, which supported what we are doing in terms of reimbursements. There was no letter, just a phone call. And just to make the record clear, they made a couple of phone calls to members of my staff as well.

Senator LAXALT. But they did have in front of them the opinion of your General Counsel in connection with your procedures?

Mr. NATHAN. That is correct.

Senator LAXALT. And I gather, reading this quickly, that they have come down in almost total opposition to the opinion of your General Counsel; is that correct?

Mr. MARGULIES. No; the central part of our opinion, was that our proposed action would not be a reprograming. They agreed that there has not been any reprograming. They raise points that were not raised by us and not considered by us before. They question whether it is appropriate for the heads of bureaus to use the money that the committee gave to the bureau to pay for administrative activities which are clearly of benefit for the bureau but which in the past have been paid for by the general administration budget, and which now, in the light of the reduction in our appropriation, we had to ask the bureaus to pick up. They question whether that could properly be done.

Senator LAXALT. Is that basically a question of law?

Mr. MARGULIES. It is a question of law for the Attorney General.

Senator LAXALT. Mr. Chairman, I came into the discussion late. Apparently the chairman of the subcommittee would have no problem if the question is addressed by the Attorney General.

Senator WEICKER. I indicated that is exactly what should be done. In the same thought I indicated until that is done, this is a warning, they cease and desist whatever it is they are doing, and then made the additional suggestion that regardless of the situation in last year's budget, that there are problems here which probably can be corrected by adjustments in this year's budget.

Senator LAXALT. I might say in respect to that point, obviously we had a bit of difficulty involved in these numbers and I would think the members of the subcommittee, including the chairman, would want to know in detail just exactly what negative impact the reduction would have. You exposed an idea, but in terms of coming down with the adjustments we have to make in 1983, I don't think the committee wants Commerce to be impaired unduly by these cuts.

You have had months of experience under this new funding structure. Tell us what the story is. I think the members of the subcommittee want to know.

SUPPLEMENTAL REQUEST

Secretary BALDRIGE. The proposal that we have is the supplemental request which still allows a 14-percent reduction from the 1982 Carter budget request. That is, with the supplemental we have requested, we would have reduced the Office of the Secretary by 14 percent. We find that going beyond that is what gives us problems because those are mostly personnel costs that would have to be reduced, attorneys, controllers, so forth. The material costs are areas like computers. We can't throw the computers out because you can't pay the payroll. So most of these costs have got to be reduced by taking people out. And if we were to do that we would end up—I don't want to go into every single item—with literal reductions of 40 to 60 percent. It would actually cost the taxpayers money. And as a prudent manager I could not see anyway to do that. What we tried to do is come up with an immediate way to run the Department and based on the advice of our counsel, I think he is correct, we can work our way out of it. The alternatives would have to be some fairly massive losses, I guess, of 40 to 60 percent.

Senator LAXALT. Are you saying, Mr. Secretary, that with the new allocation of funds out of the bureaus based upon the advice of your General Counsel you are doing your job fairly well?

Secretary BALDRIGE. Yes.

REDUCTION IN FORCE

Senator LAXALT. But failing that, if those additional funds were not available, then you are going to have substantial difficulties carrying out your functions and would have to RIF some of your people?

Secretary BALDRIGE. Absolutely.

Mr. WRIGHT. If we are not able to handle these we are looking at a potential furlough for all of the offices of between 45 and 60 days for 1,100 employees.

Senator WEICKER. Joe, let me follow up on the question that Senator Laxalt asked. The 15-percent reduction in the Department in fiscal year 1982 as compared to 1981, personnel would be reduced by 16 percent, programs reduced by 23 percent. So the question then follows, why has general administration enjoyed 15 percent?

Mr. WRIGHT. What the Secretary mentioned is 14, 15 percent would be with the supplemental if we got the supplemental. If we did not get the supplemental, it would be like 19 or 20 percent.

Senator WEICKER. Counsel is correct on that. You are talking 1983 and I am talking 1982.

Mr. WRIGHT. I am talking 1982 from the 1981 level; the continuing resolution has a $28.4 million budget authority and we are asking to be at $31.6 million; 1981 is $35.9 million.

Senator WEICKER. Are there any further questions on this?

Senator LAXALT. No.

REDUCTION IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Senator WEICKER. Mr. Secretary, a total reduction in NOAA's fiscal year 1983 budget of $88,441,000, which translates in human terms to 1,142 fewer positions is obviously much more than simple streamlining. As you know, this agency is responsible for monitoring and predicting weather and environment in order to better protect lives and property. It manages and conserves our Nation's marine resources, and provides a major source of food to Americans. It also drafts maps and charts for our safety, and generates the research and managing skills to improve our environment.

How can it be that such an agency should suffer such a drastic reduction in personnel and funding and still be able to accomplish the necessary level and quality of management that Congress intended it to provide?

Secretary BALDRIGE. Mr. Chairman, the reduction from 1982 to 1983 is 6 percent overall. The reduction in personnel is also about 6 percent. That compares quite favorably with other reductions that we have asked other parts of the Department to take. I would say that NOAA's reduction is less than the average reduction for the other members of the Department. We are looking at 6.6 percent.

Senator WEICKER. If Congress should decide that NOAA maintain the level and quality of service that are currently being provided, what additional funding—such as pay and adjustments to base—would be necessary?

Secretary BALDRIGE. If we look at the framework of the 1983 budget proposal, NOAA is going to be able to carry out its priority programs such as continuing ocean pollution research, offshore environmental data, ocean engineering and technology, improving collection of ocean environment data, and assessing the physical characteristics of coastal marine resources.

What we are trying to do is transfer to the private sector and the States the responsibilities of the programs that benefit them.

SEA GRANT PROGRAM

Senator WEICKER. Let me say this. We have gone over this ground once before and we are going to go over it again, and that relates to the sea grant program. Probably nothing that has been instituted by the Federal Government has been as successful as this program. We have this matter resolved and apparently fully expect the Congress to continue the program.

Secretary BALDRIGE. Mr. Chairman, I think it has been a good program in the past. I think it has gotten up to the objectives, and if we try, we can take that off the Federal budget. There have been six sea grant college programs established, 14 State governments have earmarked appropriations for their respective sea grant colleges, these have been the direct beneficiaries. Local and State concerns should now step up to bat on this. We have evidence of private support, individual companies which would support sea grant programs themselves and they have been very impressive—Bell Laboratories, Campbell Soup, Weyer-

haeuser, FMC, Syntex, Bristol-Myers. Those have been people who have felt that they have directly benefited from these sea grant programs enough that they are willing to step in and help finance them from the private sector, which is what this administration is trying to do. The program has been long enough and successful enough to fulfill its purposes. We feel that the States are now able to carry this out themselves and they won't do it unless we give them the initiative to do it.

Senator WEICKER. I don't think the States are going to do it themselves. They are not a substitute for the U.S. Government. Anybody who takes a look at what sea grant not only provides, but also what its potential is, can only come to the conclusion that we ought to be increasing the funding, not eliminating it.

You expect the private institutes can take up the space programs also?

Secretary BALDRIGE. They can take up part of it.

Senator WEICKER. I mean the space program, NASA.

Secretary BALDRIGE. There has been some interest developed in that area but not the whole program.

Senator WEICKER. This is probably the broadest base program that NOAA has in terms of various disciplines that come into the benefit of the Nation. I don't want to put anybody on the spot or anything, but I would hope that you would have a little more detailed conversation with your own agency, NOAA, to find out whether the opinions you are expressing are the opinions also of the agency.

Secretary BALDRIGE. Dr. Byrne is here and he can speak to it.

Senator WEICKER. Do you think sea grant ought to go down the chute?

Dr. BYRNE. I think sea grant has been very successful. We see continuing support from the universities. And the sea grant program has definite problems. We see a need within NOAA to support our mission of atmospheric sciences. So I think the relationship we develop with the universities will continue.

Senator WEICKER. Do you see the private sector taking up as a substitute for the Federal Government in sea grant?

Dr. BYRNE. I would hesitate to say that. I would say playing a larger role. One of the things that we are attempting to do is to become more involved in user communities and we are developing our plans to further that philosophy. I think as that happens we are going to see more and more involvement with the private sector with many of the activities that take place.

Senator WEICKER. I have no doubt that industrial organizations are interested. Didn't the private sector get in very heavily around the 1960's into the submersible habitat situation and found it commercially not attractive and bailed out?

I don't think the Nation can afford the commercial test as being the test relative to the criteria. I don't pretend the Government run its business the way General Electric runs its business, but I think we can ill-afford to let this go by. Maybe NOAA's budget can be trimmed, maybe we can trim NOAA up and down the line, but to me—we didn't have

to hire all these scientists, permanent employees in the Federal payroll that had access to these disciplines.

Mr. Secretary, let me say right now, and I find this quite across the board, not just in NOAA, as I talk to the private sector, the private sector is willing to do its best, but this whole notion floated by the administration that whatever the Government drops the private sector is going to pick up voluntarily I find ridiculous.

Secretary BALDRIGE. I agree that everything isn't. But I think that sea grant has been a good enough program so that 14 States have already appropriated money to their own sea grant colleges. I think that programs that affect certain areas very directly should be a combination of State and private sector support.

Senator WEICKER. But the problem is that for the waters of the United States and the waters of the world, there are no boundaries. That is the whole problem. Massachusetts and South Carolina will appropriate money that has a direct benefit to themselves and not go beyond that. But what we are talking about is a resource that has no boundaries and has to be treated as a whole, not as a State-by-State matter.

Well, I think we have all made our views known. But I want to repeat what I stated. I expect that you will see a very strong stance by the Congress on this matter. As I said, I understand that we all have to accommodate ourselves to budgetary restraints but the elimination of the sea grant program is not something in concept I can accept as the chairman of this committee.

CURRENT ECONOMIC DEVELOPMENT ADMINISTRATION FURLOUGH PLAN

Senator Hollings is not here but he would like to have me raise the following question.

It is my understanding that because of a RIF postponement in November 1981, the October 1 pay raise, and because of increased costs of FTS and space, EDA is confronted with a deficit of $3.5 million for fiscal year 1982 in the salaries and expense account. During the first week in March, furlough notices were sent to employees, requiring all EDA employees to be furloughed for 6 months and the remaining EDA employees to be furloughed for 1 day per pay period for the remainder of the year.

Language of section 110A of Public Law 97–51, signed by the President last fall, states:

> Notwithstanding any other provision of this joint resolution or any other law, there shall be 47 permanent positions designated as economic development representatives out of the total number of permanent positions funded in the salaries and expenses account of the Economic Development Administration for fiscal year 1982, and such positions shall be maintained in the various States within the approved organizational structure in place on June 1, 1981, and where possible, with those employees who filled those positions on that date.

In a letter from the Comptroller General to Senator Hollings, dated March 3, 1982, GAO states:

> For the reasons indicated below, it is our opinion that section 110A requires that the Department of Commerce fund and maintain at least 47 EDR positions in the various States within the approved organizational structure which was in place on June 1, 1981,

that employees actually occupy these positions until September 30, 1982, and that, where possible, these positions should be filled by those employees who held them on June 1, 1981. Thus, in our opinion the Department's furlough plan would violate section 110A of the act.

Senator Hollings asked the following question: What is the current furlough plan?

Secretary BALDRIGE. Joe has been working on that.

Mr. WRIGHT. Mr. Chairman, we have been working with GAO since we got that letter and have an opinion from them that we could furlough EDR's as long as we maintain the same furlough plan as we have for the rest of the employees. So there would be a furlough in order to get down to the $25 million total appropriation of 1 day per pay period.

Senator WEICKER. And has this been worked out with GAO?

Mr. KANE. That is the first I heard about that information. The last letter we had was a letter from the Comptroller General.

Mr. MARGULIES. I am discussing the refinements of certain terms. They indicated to us that treatment of the EDR on an equal basis with all those employees was compatible with section 110. They are in the process of exchanging the piece of paper but that is the representation to us. We are working orally from that.

My own comment is that we see something from GAO that furloughs for 6 months are illegal. We are now proposing 1 day per pay period. If we can see something——

Senator WEICKER. You are talking about something of which you have no knowledge and the Department should notify Senator Hollings.

Mr. WRIGHT. If I may add one thing, because we are talking about a legal issue. One of our problems from the management standpoint, we do have $25 million appropriated for the administration of that agency and we do have the EDR's which by EDA management opinion have about 15 percent of their jobs left which is primarily a project promotion in developing new applications, and we are going through the pipeline with the appropriations and we don't have that job left any more. So, from a management standpoint it is very very difficult to maintain that field structure when it is no longer needed at the level at which it was established. I agree we are talking about a legal issue, but from a management perspective, it is a pretty inefficient way to run an agency.

Senator WEICKER. I am not going to dispute that, but that is the problem.

Mr. WRIGHT. With all due respect, on this thing we have gone back and forth on just about everything we can think of, communicating all the way carefully with Congress beforehand. We have not taken any steps to reduce the EDR's without notifying Congress beforehand. That is why we still have the 47 positions out there.

TRADE RELATIONSHIP WITH JAPAN

Senator WEICKER. Mr. Secretary, both you and Ambassador Brock have stated that this country suffers from "an unequal trading relationship" with Japan, Canada, and the European Economic Community. You endorse "reciprocal treatment" and discourage bilateral sanctions.

You seek equity and fairness in international trade and rebuke protectionist pressure.

What is the leverage we can use in this demand for equal access to markets? Have we been making much headway with countries like Japan?

Secretary BALDRIGE. Making headway with a country like Japan, Mr. Chairman, is a delicate matter. A year ago we first started talking about the need to open up their markets in their own self-interest because their import level was not growing nearly the same as our export level was. It may have been all right for Japan which was recovering after World War II, but now they are an economic power and they have to face up to those responsibilities. We are going through a delicate process now in trying to form a consensus with Japan, not within the government but within government and industry in order to accomplish that. The first results of that were 67 points that they came up with. We were very disappointed with those. It was a first step, but the points did not really mean that much in terms of practical trading opportunities. So now we are going through the kinds of talks that we hope will lead to opening of their markets. We do not want to see the United States getting into a protective stance at all. We simply want to see more of an opening in these markets. It is too early to tell whether that in fact will happen, but I am convinced personally we cannot sit around and negotiate for the whole 4-year period and then begin over again with a new set of negotiations. We simply must see strong action on these markets. We will continue to keep all the pressure we can to get this accomplished.

Senator WEICKER. Why don't you have the Senate and the House pass legislation and have it go through the House, have it go through the Senate and have it arrive at the President's desk and ask the Japanese whether they want to go down and have the President's signature depending on their response? As long as they think we are kidding, they are going to give you the runaround. My feeling is all you need is a little signal out there and we will pass legislation on that so fast it will make their head spin.

Secretary BALDRIGE. If we don't see some movement from the Japanese, I think that will happen with or without the administration support. These have been difficult times for formulating specific administration policy on this because I don't think the time has come to write off what initiatives from Japan may be forthcoming.

The thing that bothers me about this reciprocal legislation, is that sectoral reciprocity simply won't work because we would be hurting the whole national trade fabric. Reciprocity is in a way opening Pandora's box. Once you start, it is very easy to take the next step. I would see that as the last resort.

The administration has not taken a position on this yet but I think from a practical approach the administration really has no control over what the Senate and Congress does.

Senator WEICKER. I don't think it does, but I think we are holding back, we don't want to interfere with the administration position. I

don't think the Japanese realize the depth of the problem. What I am suggesting is we take it up to the goal line without running it over so they understand what the feelings are. And I would bet in the absence of some initiative such as that that they are going to give you a kind of agreement that you think you ought to get. What I am saying, we give you the tools.

OCEAN PROGRAMS

I have one last question on NOAA, and that will be my last question for this morning.

NOAA was created by the Congress over 10 years ago to be the focal point in this Government for ocean programs. The budget before us proposes a rather dramatic decrease in ocean programs. The following programs are proposed for elimination: Sea grant, the national undersea research program, aquaculture research, six fishery laboratories, anadromous fisheries grants, and commercial fisheries research and development grants.

The question is: Does this signal an end to this administration's commitment to develop ocean resources or do they feel this is best handled by State and private sector?

Secretary BALDRIGE. No; Mr. Chairman, it doesn't. What it does signal is the attempt of the administration, through its budget recommendations to try and transfer as much as possible of these programs to the States and to the private sector and in some cases discontinue programs that are no longer beneficial, but mostly the former.

I personally feel quite strongly that there is an important role for the Government in the oceans. I think our only difference of opinion is on shifting what parts to the States and private sector.

Senator WEICKER. As I indicated, you can't do that when you talk about the ocean and the private enterprises. They will go there and get the oil, they will go there and get out the polymetallic sulfides and that is a potential for big bucks and otherwise they are not doing it, they are not going to do it.

Secretary BALDRIGE. The fisheries industry——

Senator WEICKER. Nothing is a better example of what they have not done. Our fisheries industry is years behind that of other nations of the world. What I am saying, a tremendous source of economic strength for the country, a tremendous source on the plus side of the balance of payment—France has, Spain has, United States does not.

Secretary BALDRIGE. I think part of that is the fault of the U.S. Government not having made enough tradeoffs in the area of getting processed fish into Japan. They buy raw fish from the United States, why shouldn't we sell them canned fish? There are a lot of things in that area. I think the fishing industry has got to do something to help itself. There are a lot of opportunities that we can do together but a lot of the research and development has been done. It is a question of investing funds with trade negotiations and so forth, but we still have a long way to go.

POLYMETALLIC RESEARCH PROGRAM

Senator WEICKER. One serious discrepancy in the NOAA budget needs some explanation. The Department is increasing its support for research on polymetallic sulfides in the deep ocean. I can fully support this. However, at the same time you are proposing to decommission the research vessel *Surveyor* and to terminate the underseas program which supports the *Alvin* submersible. Both of these support vehicles are essential arms to the polymetallic research program. Can you explain this inconsistency?

Dr. BYRNE. With respect to the *Surveyor*, we have kept the *Surveyor* in operation this year. We have at the same time equipped the *Discoverer* to take the sea beam swath mapping device, depth recorder device, which is really one of the fundamental tools for discovering polymetallic sulfides. We have not made the transfer to the *Discoverer* yet because it has been possible to keep the *Surveyor* in operation, but at such time we decommission the *Surveyor*, we will put that equipment on the *Discoverer*.

The support for *Alvin*, there are two propositions here. The *Alvin* dive which we will follow up on this next stage will occur the summer of 1983, and the *Alvin* will be supported in part by some of the funds we have available and as an add-on for the polymetallic sulfides program and that will be an add-on of $800,000 this year. Also, we may be able to find industrial support for that because it has a unique capability—industry has indicated a very sincere interest in working with us in developing some of the research.

So I think that although you are quite correct in stating that there is what appears to be a discrepancy, I think it is a paper discrepancy and will not occur as such in reality. We will continue both the use of the sea beam sounding system and the *Alvin* which will solve part of the problem of the polymetallic sulfides activities.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. There are other questions which I have which we will be submitting for response for the record.

Mr. Secretary, thank you very much for taking the time to appear before the committee.

Secretary BALDRIGE. Thank you, Mr. Chairman.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

FURLOUGH

It is my understanding that because of a RIF postponement in November 1981, the October 1 pay raise, and because of increased costs for FTS and space, EDA is confronted with a current deficit of $3.5 million for FY 1982 in the Salaries and Expense account. During the first week in March, furlough notices were sent to employees, requiring all EDR employees to be furloughed for six months and the remaining EDA employees to be furloughed for one day per pay period for the remainder of the year.

Language of Section 110A of P.L. 97-51, signed by the President last Fall, states:

> *"Notwithstanding any other provision of this joint resolution or any other law, there shall be forty-seven permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1982, and such positions shall be maintained in the various States within the approved organizational structure in place on June 1, 1981, and where possible, with those employees who filled those positions on that date."*

In a letter from the Comptroller General to Senator Hollings, dated March 3, 1982, GAO states:

> *"For the reasons indicated below, it is our opinion that S110A requires that the Department of Commerce fund and maintain at least 47 EDR positions in the various states within the approved organizational structure which was in place on June 1, 1981, that employees actually occupy those positions until September 30, 1982 and that where possible, these positions should be filled by those employees who held them on June 1, 1981. Thus, in our opinion the Department's furlough plan would violate S110A of the Act."*

When did EDA discover that a deficit would exist in the Salaries and Expense account?

The deficit of $1.5 million associated with the retention of the EDRs and the delay in the field RIF was known even before the start of the fiscal year, when the Continuing Resolution was first enacted. The pay raise costs were calculated as soon as the specific provisions of the October pay raise and the January "cap removal" were known. The unbudgeted costs associated with space and FTS were known only when first quarter billings were received.

Why wasn't a supplemental appropriation requested to meet this shortfall?

It was our intention to try to solve the initial $1.5 million problem caused by the retention of the EDRs and the delay in the field RIF by achieving offsetting savings in other areas. Indeed, we have saved approximately $1.0 million, thereby reducing the original overall problem from $4.5 million to a current deficit of $3.5 million. The furlough which we are initiating in April will save an additional $700,000, reducing the unresolved deficit to approximately $2.8 million. We had anticipated a supplemental request for the pay raise, but the OMB directed that pay costs be absorbed and that there not be a supplemental request as part of the January budget. This was a broad decision not directed specifically at EDA, and it addressed itself only to the January budget submission. The remaining deficit, which results from rate increases and other adjustments to GSA charges for space and FTS were not known (except in a broad conceptual sense) until recently.

Was a reprogramming request ever considered? If not, why not?

A proposal to transfer funds from the EDA program account to Salaries and Expenses is being considered to address the remaining funding deficit of $2.8 million which remains after our $1.0 million savings and the additional savings which will result from the scheduled furlough. A language supplemental will be required; it is not possible to "reprogram" funds from one appropriation to another.

How much funding would be required to avoid the shortfall in the Salaries and Expense account if the furlough was called off?

If there were to be no furlough, the total unresolved deficit would be $3.5 million.

International Trade Administration

Trade Policy: Reciprocal Treatment

Mr. Secretary, both you and Ambassador Brock have stated that this country suffers from "an unequal trading relationship" with Japan, Canada, and the European Economic Community. You endorse "reciprocal treatment" and discourage bilateral sanctions. You seek equity and fairness in international trade and rebuke protectionist pressure.

What is the leverage we can use in this demand for equal access to markets?

The Administration believes that there is a need to strengthen and clarify the tools available to the President to provide more equitable market access in foreign countries to American business. The General Agreement on Tariffs and Trade (GATT) provides us with one method for dealing with disputes covered by its codes and rules. For example, during the Tokyo Round of Multilateral Trade Negotiations, codes of conduct were negotiated on various nontariff measures applied by countries. Each of these codes provides a

dispute settlement procedure that allows a means of seeking redress for unfair actions covered by the code.

GATT rules are limited to trade in goods, though, and do not cover rules for trade in services and investment. We are seeking multilateral agreements on the reduction of obstacles to trade in services and investment and to include services trade on the agenda for the GATT Ministerial meeting in November. We would support legislation which would provide a statutory mandate for the President to undertake negotiation of international rules in the area of services and investment.

Section 301 of the Trade Act of 1974, as amended, also grants the President broad powers to enforce U.S. rights, including the removal of trade concessions and imposition of duties as well as other import restrictions. Section 301 authorizes the President not only to impose duties or suspend trade concessions previously granted, but to impose "other import restrictions ... for such time as he deems appropriate." This latter authorization might be interpreted to cover a very wide range of actions. The Administration may be willing to consider new statutory authority permitting trade complaints based on inequitable market access.

Have we been making much headway with countries like Japan?

In an effort to obtain reciprocal market access, we have met with Japanese officials on numerous occasions. Although some progress has been made and the Japanese Government has taken some steps in the right direction, we still have not achieved access to the Japanese market equivalent to that which the Japanese enjoy in the U.S. We expect further significant actions by the Japanese prior to the June Economic Summit.

$5 MILLION REDUCTION

Last Fall the House of Representatives passed an appropriation of $28.4 million for the General Administration account. The amount was a $5 million reduction below the $33.4 million authorized in the FY 1982 Budget Reconciliation and later recommended in the September revised budget.

On September 14, 1981 I received a letter from you appealing the House reduction for the General Administration budget and urging the restoration of $5 million. I now submit this letter for the record. In this letter the Secretary stated:

> *"Adoption of the full cut would mean the elimination of 211 positions in the Office of the Secretary. As a result, we will have to abolish 73 of the 191 positions within the Inspector General's office. Such a reduction would require the elimination of all preventive and investigative work. In addition, we would have to abolish 37 positions for management and control, such as the Departmental Offices of Personnel and Budget; and 36 of the 73 positions within the liaison offices (such as Congressional Affairs and the Office of Business Liaison)."*

On February 4, 1982, the Comptroller and Director of Finance met with staff to discuss the Department's plan to maintain the

General Administration account at a level consistent with the budget request. As I understand it, no positions were to be eliminated, and the Bureaus were being saddled with reimbursing the depleted account for personnel and services which had been part of the General Administration budget.

Please explain this budgetary legerdemain?

It is true that in first responding to the effects of a $5 million cut below the Reconciliation amount of $33.4 million, the elimination of 211 positions was cited. This was based on the enactment of a permanent appropriation early in the fiscal year. However, with no appropriation forthcoming, and support received from OMB on the submission of a supplemental request, it was judged to be imprudent to begin the reductions first described. Conceivably, these cuts could have been made at the beginning of the year with great disruption to the operations of the Office of the Secretary, the entire Department and the careers of many civil servants, only to have the actions reversed as additional funding was received.

Because of this possibility and because the appropriation process was and still is incomplete, the actions were not taken. Instead, actions of a temporary nature which could later be reversed with no adverse effects were instituted. There is no budgetary legerdemain involved. What has been done is a simple recognition that with the passage of time and accompanying uncertainty, actions that were once appropriate to the conditions are no longer so.

All this is not to suggest position cuts have not been taken. Approximately 100 positions have been cut from the Carter Budget as compared to the current revised request. Furthermore, additional reductions to reflect changing workloads and priorities are also being considered for 1982. While it is too late in the current year to realize any savings from these contemplated reductions, lower payroll costs are possible in FY 1983.

IMPACT ON BUREAUS

How are program levels for the Bureaus being impacted by the current policy of transfers and reimbursements to supplement General Administration"

Where are you absorbing the costs?

It should be emphasized that, so far, the Bureaus have not been required to divert any money from their programs for reimbursements. This would happen only if Congress failed to approve our supplemental request and we had to have the bureaus reimburse us for certain activities. The bureaus were told of this possibility early on so they could plan.

Consequently, at the present time no specifics can be given. The impact to the bureaus will be determined based on the final funding level provided General Administration. The bureaus have been informed as to the scope of possible charges and are considering the range of impacts.

General Administration has curtailed various costs through in-house reductions in areas such as personnel training, printing, equipment, overtime and consultant/experts services. Collectively, these actions are planned to reduce GA's requirements $5.1 million below the Carter Request of $36.7 million.

BUREAU COMPLIANCE

The budget justification for the General Administration program supplemental states that:

> *"...the bureaus have come to rely on the Department for personnel, legal, and budgetary guidance, inter alia, during this time of budgetary constraint. They were also aware of budget constraints facing the Office of the Secretary and have accepted the necessity for temporarily assuming the 1982 costs of these services".*
>
> *If I believe what I'm reading here, it sounds like the Bureaus are voluntarily offering up whatever is necessary to bail out the General Administration's account. Wouldn't it be more accurate to say that the Bureaus are being forced to offer up a blank check to their own detriment?*

Senior management has met with bureau representatives to discuss the necessity of preserving the staff functions of importance to both the Department as a whole and the bureaus individually. Because of their nature, the functions must be provided, if not by the General Administration account, then by the bureaus themselves. Therefore, the potential of temporarily assuming these costs is not a "detriment" to the bureaus, but rather represents the cost of benefits received by each.

POSITION REDUCTIONS

The last sentence in the narrative of the budget justification for the General Administration's supplemental states: "Failure to receive this supplemental would result in the bureaus having to permanently assume the costs of these services in FY 1982 which would effectively reduce the bureau's program levels."

I don't understand why the General Administration activity itself would not be reduced in dollars and personnel if it was clear that Congress intended such a reduction. Why wouldn't you eliminate positions?

Having already cut our personnel some 102 positions or 15% below the FY 1982 Carter Request, it is our opinion that Congress was not fully aware of the magnitude, nor the devastating effects, of the additional personnel cuts implied by the levels contained in the Continuing Resolutions. With approximately 80% of the General Administration budget consumed by payroll and related costs, severe reductions in force - up to 261 people - would be necessary to comply with the Continuing Resolution. Such cuts translate into a 47% reduction in the Inspector General's

Office and a 61% reduction in the General Counsel's Office, to name just two. Both are of high priority to the Administration and Congress; the Inspector General for improving the efficiency and effectiveness of the Department and saving taxpayers money, and the General Counsel for the important work it is currently performing protecting American industry from unfair foreign competition in the area of trigger price mechanisms and anti-dumping litigation.

At a time when the Department is reducing its size, it would be imprudent to effectively eliminate the only over-sight and management staff available to the Secretary to insure that such reductions are effectively executed and are in the interests of the Nation.

Lastly, because the Appropriations process is still incomplete, it seems unwise to take actions, such as large scale reductions in force, that would pre-empt the options of Congress and the Administration in developing final budget levels for the Office of the Secretary.

Does this mean that if Congress were to further reduce the General Administration account, say below its current level, your reaction would be merely to pillage more funds from the bureaus?

Appropriate actions taken by the Department would depend heavily upon the nature of the reductions, balanced by the responsibilities assigned to the Secretary of Commerce by Executive Order, other actions of the President and statutory law.

Do you honestly believe that you could shift all these funds from the bureaus without a reprogramming request?

In response to the Appropriations Subcommittee's request, the General Accounting Office has provided an opinion as to the legality of certain proposed reimbursements to the General Administration account. In response, the Comptroller General concluded, inter alia, that charging the bureaus as proposed by the Department would not constitute a reprogramming. Our legal counsel concurs.

Weather Stations

Last year's NOAA budget request called for closing 38 weather stations. Since many of these stations were considered by the Congress too critical for public safety, agrarian, and aeronautic interests, funding was provided to keep at least one-half of them open. A few weeks ago the Department reversed its FY 1983 request to close 45 weather stations primarily because terminating those stations was deemed premature in light of the fact that planning for the national weather network was not yet complete. Since those 45 stations will not be closed in FY 1983, wouldn't it be entirely consistent to keep open those 18 remaining stations scheduled to close at the end of April 1982?

consistent to keep open those 18 remaining stations scheduled to close at the end of April 1982?

The observational data at these 18 offices are not considered essential to the Weather Services' programs. These offices are generally smaller (one- or two-person) stations; they were selected by the Senate from the list of 38 proposed for closure.

The National Weather Service proposed closing 38 part time weather stations in Fiscal Year 1982.

The Conference Report for the Continuing Resolution provided that 18 (including Clayton and Roswell, New Mexico) stations should be closed at the end of March, 1982, and that the remaining 20 should continue operating through Fiscal Year 1982.

In Fiscal Year 1983, NWS proposed closing 45 stations, including the 20 reprieved in Fiscal Year 1982. This decision has since been reversed.

Supplemental Fiscal Year 1982 funding was requested by the NWS for the 20 stations. The request was not approved by the House Appropriations Committee. NWS intends to close all the original 38 stations by June 15, 1982, unless funds are made available from the emergency NOAA supplemental now pending.

Satellites

The NOAA budget proposes to go from a 2 Polar Orbiting Satellite System to a 1 Polar Orbiting System with a FY 1983 savings of $34 million. We are all interested in saving money. The question is what are we giving up? What information will not be available as a result? Will weather forecasts be less accurate or timely? Will coverage be available in the event there is a launch failure? Is there any back-up provision to use Defense Satellite data?

With the one polar-orbiting spacecraft, there will be approximately 10 to 15% of the equatorial belt, from 35N to 35S latitude, which cannot be usefully observed. From a single satellite this area, composed of 14 cigar-shaped patches between adjacent satellite passes, is observed at an extreme angle that reduces the usefulness of the data. This is not a serious problem for the quantitative data-temperature soundings and sea surface temperature - provided to the Weather Service for their models, but it will somewhat reduce the quality of the image data that support programs such as AgRISTARS.

We believe that by maintaining a polar satellite that orbits in the afternoon we can continue to develop numerical models that are essential to a high degree of reliability of our predictions for the Continential United States.

The DMS satellites fly at the same altitude as NOAA's polar orbiter but at different orbital angles such that they pass over the equator at different times. NOAA did consult with DOD before submitting its FY 1983 budget.

Saltonstall/Kennedy

On page 37 of the NOAA budget under Financing From Proposed Transfers, I see we are again transferring funds from the Promote and Develop Fisheries Account (S/K). Rather than go through this exercise every year, why don't you propose legislation to eliminate this separate S/K fund once and for all and establish a permanent program in the Operations, Research and Facilities appropriation?

The 1983 budget does establish a permanent program in OR&F totaling $2.7 million. This program is contained in the Managing and Using subactivity's fisheries development research and services line items ($800,000) and the quality, safety, and consumer services line item ($1,900,000). As for proposing legislation to eliminate the separate S/K fund, this is an alternative the Administration might explore.

User Fees

The NOAA budget includes proposals for user fee legislation which would reduce the OR&F appropriation by 328 positions and increase it by $12,955,000. If this legislation is not passed, what resource adjustment would be required to provide these programs with the requested level of operation?

If user fee legislation is not enacted, the -328 positions and +$12,955,000 proposed for later transmittal, the LANDSAT program would require an adjustment of $13,555,000. The aeronautical and nautical chart programs would be funded through NOAA's OR&F appropriation and by direct reimbursement from FAA and through the operation of the Trust Fund under P.L. 91-412. There would be no user fee offsets. The aviation weather program would have to be funded totally by OR&F (26,700,000) and not through the Airport and Airway Trust Fund if the later transmittal legislation is not enacted.

In cases like the LANDSAT program, it seems to me that a lot of taxpayers' money will be wasted in the process of paperwork to transfer funding from federal user agencies to federal serving agencies. What is the rational for doing this rather than simply appropriating the funds directly to the serving agencies?

NOAA was designated to assume responsibility for LANDSAT operations because of its successful experience in managing and operating operational satellite systems. NOAA is not the principal user of LANDSAT data. Federal agencies using LANDSAT data must obtain the resources through their budget process so that the justification for using LANDSAT data can be properly assessed. In addition, by appropriating funding to the user agencies the operating cost of the LANDSAT program is equitably distributed to users rather than the system operator. Since the long range objective is to transfer the LANDSAT program to the private sector, it will be mandatory that user agencies have the resources to purchase needed data.

The cost of transferring funds will be minimized by use of advance of funds procedures which require very few accounting transactions between the agencies.

NEXRAD

The future of the national weather service depends on its ability to modernize and maintain a national weather network which provides accurate and timely information to populated areas. Why are you recommending a $1 million reduction in the NEXRAD program which would cause a 3-year delay in the planned completion of this system?

All programs in NOAA were assessed for reduction potential and the effects of a reduction were weighed against national interests and priorities. The final budget proposal reflects the judgements made in that context. The $1 million proposed reduction does not decrease service to the point that it affects public safety, but instead allows the program to continue at a reduced level that lengthens completion of NEXRAD implementation.

Has this postponement been coordinated with the Departments of Defense and Transportation? What has been their reaction?

Both the Department of Defense and Department of Transportation have been apprised of the proposed budget restrictions in NOAA. These Departments have also proposed reductions in NEXRAD for FY 1983 and FY 1984. Since all three agencies perform essentially the same role in the NEXRAD program, reductions taken by each agency will not result in elimination of agency-specific NEXRAD features, but will rather delay system completion as a whole for 2 to 3 years.

While there are $1 million in anticipated savings in FY 1983, how much more will this system cost to complete in the outyears?

Since effects on costs ten years hence are contingent on a wide variety of economic factors which cannot be predicted with confidence, we cannot provide an estimate of the long-term funding effects of the proposed reduction. The reduction was proposed, however, in the expectation that the savings achieved now will not significantly impact the outyear cost-effectiveness of the program.

Promoting Domestic Fisheries

Knowing your strong interest in promoting domestic fisheries development, please outline the progress made by the Department in enhancing the U.S. fishing industry.

Emphasis has been placed on increasing exports of U.S. fisheries products. This has resulted in the "Fish and Chips" policy of linking access by foreign fishing fleets to fisheries resources within the U.S. Fishery Conservation Zone with reductions in tariff and non-tariff barriers which restrict the ability of U.S. firms to export products to the foreign country. Supporting this policy are efforts to identify tariff and trade barriers in foreign countries to determine relative impacts and negotiating strengths. Additional effort has been directed to improving awareness of export opportunities of U.S. firms by coordinating sales mission to foreign countries and participation by the U.S. fishing industry at the

world food fairs held in West Germany and France and other smaller food shows.

Emphasis has also been placed on increasing domestic consumption of U.S. produced fisheries products. The "Catch America" Program successfully involved major segments of the U.S. fishing industry in a coordinated national effort to make consumers more aware of fisheries products and the economical and health advantages of fish in the diet. The "Catch America" Program was designed to enhance the supply of products and to make them available to consumers not only in response to demand, but also to help stimulate consumption.

A program of grants to the fishing industry was initiated to aid the fishing industry in overcoming impediments to increased use of fisheries resources. Grant funds have supported private sector efforts to improve the productivity and efficiency of harvesting, processing, distribution and marketing activities. Grants total $8.2 million in 1979, $12.1 million in 1980, and $9.9 million in 1981.

An effort was initiated to work with other government agencies which have programs impacting the U.S. fishing industry. This has been done to improve decision-making within agencies which ordinarily do not possess significant experience in fisheries-related matters and often are under-funding or faced with time constraints. Partly as a result of our involvement, the Environmental Protection Agency is reassessing its position on effluent guidelines applicable to the fishing industry. Cooperative efforts are also being pursued with the Food and Drug Administration on matters related to the safety of fishery products.

Questions Submitted by Senator Ernest F. Hollings

Increased Fees and Charges

The fiscal 1983 budget for the Department assumes large increases in user fees and other charges in support of agency programs instead of financing by the annual appropriations. For instance, the new Patent and Trademark fees--that have not yet gone into effect--are to be increased by $39,000,000. The charges for NOAA's charts are to be significantly increased and the FAA trust fund is to underwrite the aeronautical charges to the extent that a total of $26,100,000 has been deducted from NOAA's budget.

Has the required legislation necessary to increase the fees been submitted to the Judiciary and Commerce Committees?

As part of the President's FY 1983 budget and 1982 legislative program, NOAA is developing legislation (1) to authorize the Secretary of Commerce to increase fees for nautical and aeronautical charts in order to recover the full cost of producing and distributing these charts by FY 1985; and (2) to authorize the Secretary of Commerce to recover the cost of providing specialized aviation weather services from the Airport and Airway Development (ADAP) Trust Fund, now supported by aviation fuel and airline passenger taxes and administered by the FAA. Draft bills to meet these ob-

jectives are now being reviewed by the Department of Commerce and the Office of Management and Budget.

Is the Department prepared to submit a budget amendment restoring the funding deducted from the regular appropriations if the legislation is not enacted?

If legislation is not enacted some type of budget adjustment would be considered, particularly in the case of the LANDSAT program.

Department of Agriculture Transfers

On June 23, 1981 the House Appropriations Subcommittee reduced the request for General Administration by 15%. This Subcommittee endorsed that reduction on September 11, 1981. In view of the severity of that reduction, why were 6 people brought over from the Department of Agriculture, where former Deputy Secretary Wright was in the last Republican Administration, and added to an already deficient situation?

Upon appointment of Deputy Secretary Wright, it was his desire to improve administrative operations and at the same time achieve significant savings in overhead costs Department-wide.

To accomplish this, it became necessary to employ individuals with expertise in this area. Having instituted such a system at the Department of Agriculture he was aware of individuals possessing such expertise.

The systems to which these people are assigned are the consolidation of personnel and payroll and the consolidation of selected administrative activities and are positions in the administrative reorganization approved by Congress.

These new systems will reduce administrative overhead by 43 staff-years and achieve an estimated annual savings of $1,060,000.

Beyond the economies inherent in these systems, the consolidations will provide better management practices and delivery of services with significant savings in resources.

All employees were transferred to the Department under applicable Office of Personnel Management regulations.

Successor to Deputy Secretary

When will a successor to Mr. Wright be nominated; and Mr. Secretary, are you also moving to OMB?

At the present time no nominee has been selected by the White House.

No, I am not moving to OMB.

Transfer of Assistant Secretaries

The Department plans to offset the reduction in the 1982 General Administration appropriation by selling off the costs of some of the Assistant Secretaries.

-- Which Assistant Secretary's offices are to be sold off to other appropriations?

-- Which Bureaus and Agencies of the Department are paying for the Assistant Secretaries?

In 1982 the Department may charge the costs of the Assistant Secretaries to their respective bureaus as follows:

Assistant Secretary	Bureau	Amount
		(dollar amounts in thousands)
Assistant Secretary for Economic Affairs Assistant Secretary for Productivity, Technology and Innovation	Economic Affairs Activities	$212,000
Assistant Secretary for Telecommunication and Information	National Telecommunication and Information Administration	114,000
Assistant Secretary for Economic Development	Economic Development Administration	95,000
Under Secretary for Tourism	United States Travel and Tourism Administration	101,000
Under Secretary for Trade	International Trade Administration	243,000
Deputy Under Secretary for Trade	International Trade Administration	118,000
Assistant Secretary for International Economic Policy	International Trade Administration	$103,000
Assistant Secretary for Trade Administration	International Trade Administration	95,000

Assistant Secretary for Trade Development	International Trade Administration	119,000
		$1,200,000

These amounts are estimates and bureaus will be billed for actuals only.

AUGMENTATION

-- *By letter of March 1, 1982 the Secretary indicated that this procedure is not an augmentation of the GA Appropriation. How can it be anything else since the funds for these offices were specifically requested in the GA account and not in the accounts that are now funding these offices?*

It is the Department's position that the proposed action to charge our bureaus for reimbursement of services does not constitute a reprogramming of funds since it will not involve transferring funds from one line item to another within a single appropriation. In a letter to Senator Weicker dated March 15, 1982, the Comptroller General agreed that charging the bureaus as proposed by the Department would not constitute a reprogramming.

You question what our action is to be called, since it is not a reprogramming or an augmentation of appropriations. We view it as an exercise of the Executive Branch's discretion to focus its resources in the interest of good management. Congress itself recognized the need for such flexibility when it first addressed reprogramming in reports accompanying past appropriations. For example, in S. Rep. No. 328, 94th Cong., 1st Sess. 6 (1975), the Committee Report for the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations Bills, the Committee stated that "it is mindful of problems inherent in long range budget planning and does not desire to unnecessarily limit the flexibility of the Departments and Agencies in the fine and timely refocusing of resources necessary to good management practices."

-- *Did the advice you received on this procedure come from the same General Counsel that advised that the furlough of the EDRs was legal? May we have a copy of his opinion for the record?*

Yes. Also provided is a Memorandum for the Files covering a meeting held with GAO, subsequent to their initial opinion, in which GAO clarifies their position, stating that EDR's can be furloughed, as long as they are treated in the same manner as other EDA employees. (Correspondence follows.)

GAO Opinion

GAO yesterday found these proposed billings also to be illegal. When was the last time GAO found the Department acting illegally twice in two weeks?

With the subsequent clarification of GAO's opinion regarding the EDR's, the Department has been judged in compliance with all applicable laws.

Program Secretarial Offices

If there is any merit to having the Bureaus and offices pay for these offices in 1982, why are they being restored to GA funding in 1983?

The matter is one of timing. Subsequent to the receipt of the OMB allowance for FY 1983 restoring these resources to the Office of the Secretary, it was generally felt that a more suitable location would be with the bureaus. The Department, therefore, has no objection to the transfer of adequate funding and personnel to the respective bureaus, if Congress so desires.

10 FEB 1982

MEMORANDUM FOR: Carlos C. Campbell
Assistant Secretary for Economic Development

FROM: Irving P. Margulies
Deputy General Counsel

SUBJECT: Furloughing of Economic Development Representatives

This confirms oral advice given by this office to John Donaldson, Office of Congressional Relations, concerning whether EDA may the furlough its Economic Development Representatives (EDRs). You have indicated that the EDRs would be furloughed for a period of up to six months.

The first question is whether the EDRs can be furloughed pursuant to the Office of Personnel Management (OPM) regulations contained in Title 5 of the Code of Federal Regulations. Section 351.201(a) of those regulations provides that a furlough of more than 30 days can be utilized when a shortage of funds requires the agency to release employees. EDA currently is projecting a deficit of more than $1.6 million. This deficit cannot be offset by reductions in non-personal costs, most of which are fixed. A furlough of all EDR positions for six months will generate a savings of approximately $800,000 which is roughly half the current deficit. Clearly this situation meets the criterion of shortage of funds.

OPM also indicates in Federal Personnel Manual (FPM) Bulletin 351-32, dated December 4, 1981, at section 6, that a furlough can be used only when an agency has the expectation that it will bring the furloughed employees back to work within one year, and cannot be used in lieu of a reduction in force when the agency fully intends to separate those employees at some later date. Section 110A of Public Law No. 97-51, Continuing Appropriations for Fiscal Year 1982, indicates that there shall be forty-seven permanent positions designated as EDRs out of the total number of permanent positions funded in EDA for fiscal year 1982. Since, as we have previously advised you, this provision

prevents EDA from abolishing the EDR positions, there exists the expectation that the furloughed employees will be brought back to work in these positions within one year. Thus, the OPM criterion for furloughing the EDR's has been met.

The final question is whether section 110A of the Continuing Appropriations prohibits the furloughing of the EDRs even though it is allowed under OPM regulations. As mentioned above, this section indicates that "there shall be forty-seven permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded . . . for fiscal year 1982, and such positions shall be maintained . . . where possible, with those employees who filled those positions on [June 1, 1982]." (Emphasis added.) While this language requires EDA to maintain the EDR positions, it does not require that the positions be continuously occupied. Since a furlough, unlike a reduction in force, releases the employees but does not eliminate the positions, the positions will in fact be maintained in EDA. I would not infer Congressional intent to exempt the EDRs from the rules and regulations concerning Government employees. In fact, by use of the language "where possible," I would conclude that Congress recognized that employees occupying those positions would continue to be subject to the personnel laws and regulations and could, for example, be removed for misconduct, or, as in this case, be furloughed due to a lack of funds. Thus, section 110A does not prohibit a furlough in this situation.

MEMORANDUM FOR THE FILES

FROM: James K. White
Deputy Assistant General Counsel
for Administration

SUBJECT: Furlough of Economic Development Administration Employees/Meeting with GAO

On March 5, 1982, Marilyn Wagner, Jim Marten, and I met with F. Henry Barclay, Jr., Associate General Counsel for Personnel Law, GAO, and Rollee H. Efros, Associate General Counsel for General Government Matters Division, GAO, to discuss the Comptroller General's recent letter to Senator Hollings, Opinion No. B-206318 dated March 3, 1982, which concluded that a six month furlough of Economic Development Representatives (EDRs) would be contrary to section 110A of H.R.J. Res. 325.

Marilyn Wagner began the meeting by stating our concerns regarding the possible scope of the opinion because it appeared to go beyond consideration of the six month furlough proposal and imply that EDRs could not be furloughed for any length of time, even though most other EDA employees are being furloughed. Both Mr. Barclay and Ms. Efros stated that Opinion B-206318 was deliberately worded in such a manner as to avoid reaching such a sweeping conclusion. For example, the final paragraph of the opinion specifically limits its conclusions to the "proposed furlough" of six months. Barclay and Efros stated that neither H.R.J. Res. 325 nor Opinion No. B-206318 prevents a furlough of the EDRs as long as they are treated in a manner similar to that of other EDA employees. Ms. Efros stated that GAO's concern with the Department's proposed six month furlough is that it would be tantamount to removal of the individuals and abolishment of the positions contrary to the language of §110(a) requiring that the EDR positions be "funded." A furlough of one or two days per pay period, for example, would not constitute removal, and therefore, would be consistent with §110(a).

As the extent to which EDRs could be treated differently from other EDA employees, short of a six month furlough, Mr. Barclay opined that while it is difficult to draw a line on that issue, the action becomes increasingly questionable as one departs from equal treatment for the EDRs. Ms. Efros went further, stating that it would be contrary to the thrust of §110(a), and the Congressional intent as indicated in the legislative history of that provision, to single out the EDRs for treatment more severe than that accorded other EDA employees.

Finally, in response to a question from Mr. Marten regarding the effect of the March 30 expiration of funding under the Continuing Resolution, Ms. Efros stated that Opinion B-206318 was based on an assumption that EDA would continue to be funded until the end of Fiscal Year 1982. Therefore, the opinion should not be read as requiring the Department of Commerce to set aside, out of its current funds available through March 30, an amount necessary to compensate the EDRs to the end of 1982.

Ms. Wagner, Mr. Marten and I all agreed with these conclusions.

Concurrence: Ms. Wagner
Mr. Marten
Mr. Barclay
Ms. Efros

Economic Development Administration

The latest monthly unemployment rate is 8.8%, the highest since May 1975. Yet, the Reagan Administration again proposes no funding for the Economic Development Administration. Isn't it time that the Administration acknowledges that its economic programs are going to require time and that EDA needs to be continued until the Reagan program can demonstrate that it will work?

The Administration's recovery program commenced in October 1981. From its inception it has been clear to the Nation that a reasonable period of experience would be required for the program to demonstrate that it was and is a sound premise for long term economic recovery. The Administration has continued to forecast economic recovery in the second half of 1982 at which time further evaluation of the program may well render indications of any needed changes. During this period EDA will actively pursue its programs to the extent of its financial capability; Title IX may well be of some direct assistance to recovery efforts. As you know, EDA's primary efforts are aimed at long-term initiatives. We perceive this question to be addressed to the immediate economic circumstances. Accordingly, EDA's continuance will not be an answer to the immediate concerns as expressed. Many of EDA's programmatic undertakings are now capably performed at State and district levels which can identify development requirements for countercyclical activity more time/cost effectively. Additionally, it has been clear for some time that meaningful job preservation and creation is achieved through strength in private enterprise. The Administration's recovery program can create the base

upon which private enterprise can revitalize the American economy.

EDA's salaries and expenses appropriation is over-extended. The Department proposed the furlough of the Economic Development Representatives for six months, which GAO said was illegal. How can we work with you to take care of the deficiencies in this appropriation and minimize the disruption on EDA's employees?

The Administration is considering proposing a language supplemental which would utilize approximately $2.8 million of lower priority program funds to offset the unresolved deficit in the Salaries and Expenses account. We have already generated savings of $1.0 million. We will save an additional $700,000 to $800,000 through the furlough of all EDA employees (including EDR's) for 12 days.

Tourism

Last year the President approved the legislation establishing the U.S. Travel and Tourism Administration. At the time, it seemed that the Administration embraced the aims of the Act which elevated the Assistant Secretary for Tourism to an Under Secretary. Why did the Administration approve the upgrading of the Government's tourism activities and then cut the funding by one-third?

A number of difficult decisions had to be made when the Department's budget for FY1983 was prepared. The one to request $5.03 million for USTTA was just such a decision. However, clearly, when we face the prospect of a budget deficit of the $100 billion range, programs must be cut.

How do they justify the present budget request when the National Tourism Policy Act (P.L. 97-63) requires that six overseas offices remain funded at the 1980 level ($6,400,000)?

Section 4(b)(2) of the National Tourism Policy Act provides that, "In any fiscal year, the amount of funds which shall be made available from appropriations under the Act for obligation for the activities of the offices of the U.S. Travel and Tourism Administration in foreign countries shall not be less than the amount obligated in fiscal year 1980 for the activities of the offices of the United States Travel Service in foreign countries."

While this provision is clear in its meaning under the Act, it does not prevent the agency from requesting the Congress to consider an alternate requirement for use of its FY1983 appropriation. The FY1983 budget proposal constitutes such a request. The Department is asking the Congress, by way of an FY1983 appropriation act, to modify the restriction contained in 4(b)(2).

What overseas programs will have to be eliminated at the proposed 1983 level?

Brochures, mailing house services, consumer information services, and media services. Market research and multilingual reception services at U.S. ports of arrival would also have to be cut.

Why are personnel retained overseas when there are no program funds?

The Regional Directors and their staffs will be able to provide those services which can be personally performed by them by mail or telephone and by one-on-one personal meetings or group meetings in the metropolitan areas where their offices are located. Individual prospects can be provided counseling, and existing informational materials can be distributed. To a limited amount, they will be able to provide technical liaison between tour wholesalers, agents, and tourism trade committees in the marketplace and State, city and regional tourism interests in the U.S.; to plan, organize and arrange workshops, educational presentations, and travel industry appointments in the marketplace for visiting U.S. travel missions; and to organize U.S. travel shows and participate in U.S. pavilions at world travel shows in each market.

What assurance of increasing State expenditures is there when the States have spent less than 5% of the tourism promotion budgets on international travel?

I do believe that most states might be able to invest $5,000 or $10,000, and that individual travel industry enterprises within a state might be willing to contribute $1,000 to $20,000 each, depending on their size and interest in the international market.

The budget assumes that private, corporate contributions will make up the reduction in 1983. Is the new Under Secretary to go out on the street with a tin cup to underwrite his activities?

Not necessarily. For example, USTTA might offer to assist a region -- or several regions -- in preparing its marketing and operating plans. Then the cities, states and travel industry firms that comprise the region would be responsible for forming a non-profit association which would raise money and implement the plan. However, the Under Secretary certainly wouldn't hesitate to approach the travel industry for funding for specific USTTA projects. I think we should recognize that the cooperative approach to travel promotion is neither new nor novel -- nor pioneered by the United States. The European Travel Commission and the Pacific Area Travel Association employ joint funding for cooperative projects, and there is no reason why a coalition of the public and private sectors in the U.S. could not do the same.

Aren't you creating a conflict-of-interest situation for the Under Secretary?

Federal law prohibits an employee from taking any official action in exchange for personal financial benefit. Department of Commerce regulations go further, and also prohibit any action that would create the appearance of personal financial gain as a result of one's official position. Accepting official gifts to the Department from persons and entities with whom USTTA officials deal in their official capacity would not result in personal financial gain to those officials, nor would it create the appearance of personal benefit. Of course, USTTA employees can not accept personal gifts from entities having a business relationship with the Department.

Department regulations also provide that official donations to the Department can not be accepted if acceptance would create the appearance of compromising the integrity of the Department's programs. This is a consideration we take into account on a case-by-case basis to assure that acceptance of a particular gift will not result in

this Department favoring, or appearing to favor a particular donor. I assure you that we are sensitive to this problem, and I am confident that by carefully considering each gift to the Department we can avoid appearance of compromising the integrity of our programs.

COASTAL ZONE MANAGEMENT

Last year, Congress disagreed with the Administration's recommendation to terminate the Coastal Zone Management Program. A reduced level of funding was provided in the fiscal year 1981 Supplemental Bill for the next 2 to 3 years, which the President signed into law. However, the Administration now proposes to rescind the $12,000,000 already available for 1983 and terminate the program with the same old catch-all phrases ostensibly making a case that it is purely a state-oriented program.

Congress reauthorized CZM in 1981 for an additional 5 years, adding responsibilities for both the states and the Federal Government. The law clearly states the national interest which must be pursued.

How do you propose to implement this law?

The CZM was amended in October 1980, authorizing an additional 5 years of Federal funding for coastal states and territories, and requiring specific program improvements which the Congress determined to be in the national interest.

In June 1981, Congress indicated in its budget action, deferring and transferring CEIP funds for CZM use, that these funds should be used to phase-down Federal funding. Given this change in policy in both the Executive and Legislative Branches, NOAA has been working with the state coastal program managers to implement the CZMA as amended in 1980, in three ways: (1) we are and will continue to counsel the states on how to design and implement Federal funding phase-down plans that will permit continued Federal approvability; (2) will make final CZM awards totalling $21 million in FY 1982 to bridge these phase-down plans into FY 1983 or FY 1984, depending upon each state's individual circumstances; (3) will continue to provide other vital national services, including ongoing evaluation of state programs under Section 312; overview and coordination in implementing the consistency provisions; and provision of the best information and technical assistance available to help coastal states keep their operating costs as low as possible while improving their programs. Given these plans, we believe the phase down can be accomplished within the $21 million proposed funding.

WEATHER STATIONS

I understand that you have recently succeeded in gaining OMB approval to keep the 25 full-time and 20 part-time weather stations open for fiscal year 1983. And I understand that OMB agreed to give you the personnel necessary to run these stations, although the additional funds necessary to do so were not agreed to.

(1) Where will the funds come from to maintain these stations?

In order to maintain the 20 stations, NOAA had proposed to reprogram funds from three less essential activities: 1) opertional funding for the new Weather Service Office at Tupelo, Mississippi, (these funds are not needed now, because the station is still under construction); 2) reduced hurricane reconnaissance funding; and 3) reduced funding for inflationary adjustments. The requested reprogramming has been rejected by the House.

You indicate that it is now necessary to retain the 20 weather stations that Congress kept open last year. What about the 18 that are to be closed in 1982 -- what's the substantive difference? For instance, Senators Huddleston and Dixon believe we made a mistake in closing Cairo, Illinois; and Representative Virginia Smith has been sending out daily bulletins about the closing of Valentine, Nebraska.

The closing of 18 small part-time Weather Service Offices (WSO) is the result of Congressional action on the Department of Commerce's FY 82 budget proposal to reduce personnel and expenditures by closing 38 part-time WSO's. The Senate specifically identified 20 of these WSO's to be maintained in FY 82, and this language was, in effect, appended to the FY 82 continuing appropriations resolution (H.J.R. 370) by explanatory statement in the December 10, 1981 Senate Congressional Record (S.14957). For the most part, these were the offices having the larger staffs and more extensive service program responsibilities. The NOAA reprogramming request to permit the 20 WSO's to remain open for the remainder of FY 1982 has been denied by the House, therefore all 38 WSO's will be closed by June 15, 1982, unless funds are provided in the NOAA Supplemental now pending.

Termination of Agricultural Weather Forecasting

In the budget justification for reducing and terminating aviation, fire, and agricultural weather forecasts, you make the following statement:

> **These services can and should be more appropriately provided by the private sector or by other agencies of the government more directly concerned with the availability of these services.**

What other Federal agency will be providing this service if it is terminated by NOAA?

What small farming interests will be stepping forward to pick up the cost of this service? What information do you presently have that indicates small farmers are financially able to assume responsibility for this service?

One of the reasons that the United States as a nation is so productive agriculturally is that our farmers have not only had good soil and climate for production, but they work hard at having the correct knowledge and information necessary to make decisions that affect their immediate economic future. More than other industries in this country, however, farmers remain at the mercy of the weather. As an example, in South Carolina the net farm income for 1979 was $281 million. In 1980 however, as a result of a drought, the net farm income was only $39 million, and the 1981 figure is

expected to be less than last year. Agricultural forecasts have been extremely helpful over the years in helping reduce losses, except in the most extreme weather conditions. Now you are proposing to terminate the forecast program. What specific information do you have on the economic impact of terminating this program on the small farm community?

The Agricultural Weather Program provides services to a specific user group. It is proposed that these services could be provided by a segment of private industry -- the private meteorologist. The user can purchase from the private sector only those services needed. General, public warnings and forecasts which contain useful information to the farmer will continue to be available.

It is probable that cooperative associations representing groups of small farmers will assume financial responsibility for program services that suit the groups' needs. Farm groups in California and Florida have investigated the logistics of contracting for agricultural weather services.

Proposal to lay up research vessels

Your budget proposes to lay up several ships, among them the Class I research vessel SURVEYOR, at a savings of 41 positions and $2.3 million. Aboard the SURVEYOR, of course, is one of our most important pieces of ocean research technology, the SEABEAM, which is supposed to be transferred to the DISCOVERER when the SURVEYOR is laid up. While it has been inferred that this arrangement will be perfectly suitable for the SEABEAM, isn't it true that the configuration of the DISCOVERER's hull differs from that of the SURVEYOR, and this will have a negative effect on the operation of the SEABEAM?

The SEABEAM has never been operational aboard the DISCOVERER, therefore, an actual comparison of its performance is not possible; however, it is true that the configuration of the SURVEYOR's hull differs from that of the DISCOVERER and in comparison to the SURVEYOR, the DISCOVERER's hull is considered "noisy." The main reasons for this are that DISCOVERER is powered by diesel engines which emit vibrations through the ship and into the water and has a bow thruster which causes turbulence and bubble masking which degrades the quality of sounding data. SURVEYOR's underwater lines are hydrodynamically clean and the ship is powered by steam turbines. Experience has also shown that SURVEYOR is able to perform conventional acoustic operations under more severe sea conditions than DISCOVERER. However, operating the DISCOVERER at different cruising speeds should overcome most of this disadvantage.

Implementation of the FCMA

You propose in your NOAA budget to make some drastic cuts in fisheries research--for example, $4 million for fish stock assessment, $3.3 million for the regional councils, $3.6 million for fisheries habitat, $3.6 million for data collection and analysis, $.6 million for recreational fisheries, and so forth. The stated reson for so doing is that these activities can better be handled by the private sector or states involved. In 1976, the

Magnuson Fishery Conservation and Management Act became the law and requires implementation involving Federal, regional and state government entities. Without basic research, data collection, stock assessment, and the like, which you are proposing to cut, this law cannot be implemented. How do you propose to implement this law in the face of the budget cuts you propose?

These reductions are part of a general reduction in the rate of fishery management implementation, consistent with the President's policy for reducing the Federal regulatory burden on the American public. We believe the proposed reductions can be implemented without serious consequences; over the short-term, to currently managed fisheries. It is NOAA's position that management should be extended to only those fisheries for which management is needed.

General Administration

STATEMENT OF ARLENE TRIPLETT, ASSISTANT SECRETARY FOR ADMINISTRATION

ACCOMPANIED BY:
SHERMAN FUNK, INSPECTOR GENERAL
IRVIN P. MARGULIES, DEPUTY GENERAL COUNSEL
DAVID S. NATHAN, CONTROLLER
NANCY A. RICHARDS, DIRECTOR, OFFICE OF BUDGET
LEO A. PALENSKY, DIRECTOR, OFFICE OF FINANCIAL MANAGEMENT
GLENN R. EDELMAN, BUDGET OFFICER

BUDGET REQUEST

Senator Weicker. Our next request is that of the general administration of the Department of Commerce. Appearing on behalf of this request is Arlene Triplett, Assistant Secretary for Administration, who is accompanied by various officials of the Department.

Mrs. Triplett, we will be pleased to enter your statement in its entirety into the record at this time and I would appreciate it if you would summarize it.

Mrs. Triplett. Thank you, Mr. Chairman. I have with me today, Sherman Funk, Irvin P. Margulies, David S. Nathan, Leo A. Palensky and Glenn R. Edelman.

I will try to skip through the testimony because we did cover some of it earlier.

OPENING STATEMENT

Mr. Chairman, I am pleased to present the budget request for the general administration appropriation. I will be discussing our request for a 1982 supplemental and the budget for 1983.

The 1982 budget situation continues to be our most pressing concern. The amount currently available under the continuing resolution for general administration is $28,407,000. The Reagan September request of $33.5 million represented a reduction of $3.2 million or 9 percent below President Carter's 1982 budget request. The continuing resolution level is an additional $5.1 million or 15 percent below the September request. For 1982, we are seeking a supplemental of $3,171,000. This is in addition to the $28,407,000 currently available in the continuing resolution for a total of $31,578,000.

We have detailed in the justifications for the supplemental, and in previous discussions with this committee, the impact of a $28.4 million appropriation on the management of the Department.

These actions would have significantly impaired the Secretary's ability to carry out his policy and management responsibilities. Because the 1982 appropriation process was incomplete, and because OMB approved submission of a 1982 supplemental, we did not take these actions. Moreover, until the supplemental could be considered by Congress, we took actions which would maintain the Office of the Secretary at its current level. These actions temporarily transferred the funding of certain functions to the bureaus.

We strongly believe the supplemental appropriation and the management actions we have taken are necessary in order to maintain our policy and management responsibilities and to provide the leadership to improve management in the Department. There are many efforts underway to streamline the management of the Department, increase accountability, and eliminate waste.

The leadership for these initiatives has come from the Office of the Secretary. Unless we get the resources to maintain the stimulus we have created, these and other administrative improvements and the savings associated with them will be lost.

1983 BUDGET REQUEST

The 1983 budget request is $31,613,000, the same as the 1983 base. There are no program increases.

The changes are due solely to adjustments to base including:

Restoring $1.2 million for the Assistant Secretaries funding from the bureaus to the general administration budget.

A decrease of $3,346,000 and 75 positions for transfers of functions to other organizations in and outside of the Department. These transfers were approved by the Congress in fiscal year 1981.

An increase of $1,592,000 for the full year's cost of the pay raise for general schedule and SES employees.

Other increases totaling $894,000 to meet uncontrollable price rises for health benefits, telephone, printing, per diem rates, et cetera:

A decrease of $358,000 due to nonrecurring portions of the supplemental.

In summary, Mr. Chairman, our principal endeavor here today is to urge the committee to support our 1982 supplemental. Without these funds, management of the Department will be seriously hindered. I believe that we have demonstrated our commitment to hold down our costs and to streamline management and that our requests for 1982 and 1983 are the minimum necessary to effectively manage the Department.

PREPARED STATEMENT

That completes my prepared statement. I will be happy to answer any questions you and the committee might have.

[The statement follows:]

STATEMENT OF ARLENE TRIPLETT

Mr. Chairman, members of the committee, I am pleased to present the budget request for the general administration appropriation. I will be discussing our request for a 1982 supplemental and the budget for 1983.

1982 SUPPLEMENTAL

The 1982 budget situation continues to be our most pressing concern. The amount currently available under the continuing resolution for general administration is $28,407,000. The Reagan September request of $33.5 million represented a reduction of $3.2 million or 9 percent below President Carter's 1982 budget request. The continuing resolution level is an additional $5.1 million or 15 percent below the September Reagan request. For 1982, we are seeking a supplemental request of $3,171,000. This is in addition to the $28,407,000 currently available in the continuing resolution for a total of $31,578,000.

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The leadership for these initiatives has come from the Office of the Secretary. Unless we get the resources to maintain the stimulus we have created, these and other administrative improvements and the savings associated with them will be lost.

The 1983 budget request is $31,613,000, the same as the 1983 base. There are no program increases.

The changes are due solely to adjustments to base including: restoring $1.2 million for the Assistant Secretaries funding from the bureaus to the general administration budget; a decrease of $3,346,000 and 75 positions for transfers of functions to other organizations in and outside of the Department. These transfers were approved by Congress in fiscal year 1981; an increase of $1,592,000 for the full year's cost of the pay raise for general schedule and SES employees; other increases totaling $894,000 to meet uncontrollable price rises for health benefits, telephone, printing, per diem rates, et cetera; and a decrease of $358,000 due to nonrecurring portions of the supplemental.

In summary, Mr. Chairman, our principal endeavor here today is to urge the committee to support our 1982 supplemental. Without these funds, management of the Department will be seriously hindered. I believe that we have demonstrated our commitment to hold down our costs and to streamline management and that our requests for 1982 and 1983 are the minimum necessary to effectively manage the Department.

That completes my prepared statement. I will be happy to answer any questions you and the committee might have.

FURLOUGHING OF EMPLOYEES

Senator WEICKER. Let me ask a question before we get on to Mr. Funk.

We were told maintaining general administration funding level of continuing resolution will require the furloughing of some 1,100 employees for up to 60 days. For the benefit of Senator Laxalt, I would like to set the record straight why this action would be required.

In the summer and again in September when your budget is considered we were told that the reduction of 211 positions would be required. Is it now true that today more drastic action is necessary because the Department chose not to reduce employment in the hope that Congress would reverse itself?

Mrs. TRIPLETT. Mr. Chairman, in the summer when we were considering the reduction, it was true that 211 employees would have to have been terminated. In December when our continuing resolution level was final, we were so far into the fiscal year that an excess of 261 employees would have to be terminated because the severance costs would increase and the savings which could be realized would be decreased. At that level, with a 42-percent reduction in personnel in our operations, the Secretary could not carry out his legislative responsibilities or his management responsibilities. We had permission from the Office of Management and Budget to submit a supplemental request because the appropriations process was not yet complete; we did not reduce employment.

Senator WEICKER. The question is, did you not ignore congressional intent?

Mrs. TRIPLETT. Mr. Chairman, I don't feel that we ignored congressional intent. We were very conscious of congressional intent. We took many actions to reduce our spending and eliminated the Secretary's initiative fund. We reduced training, contracts, and overtime. I have been very unpopular. I approved all expenses myself for the last 4 months that were not of an ordinary nature. We have done everything we can. The Inspector General is screaming for more resources. We have tried to reduce our costs without taking personnel reductions that would impact on our operations. But, likewise, if we were successful in achieving approval of the supplemental, we would have turned around and hired the people back because they are necessary to our program operation and the service that we offer to the bureaus.

Senator WEICKER. Why are your estimated reductions, should you not receive your supplemental, different from your appeal after the House initially reduced the budget last summer?

Mr. NATHAN. The difference is related to the passage of time. Every time a month goes by the flexibility is reduced. You have to save more money in less time. That is why as each month goes by our personnel reduction in force estimate is greater.

Senator WEICKER. Last fall during congressional action on H.R. 4169, the House and Senate reduced funding for the general administration account by 15 percent or $5 million below the September revised budget. The subsequent continuing resolution, Public Law 97–92, signed by the President on December 15, 1981, maintained the same level of funding at $28.4 million.

PROGRAM SUPPLEMENTAL

You are now requesting a program supplemental for general administration for $3.2 million. What aspects of this request have changed since last year which will convince this committee to support this request for augmented funds?

Mrs. TRIPLETT. Essentially nothing has changed. The Secretary still maintains his position that he needs the $3.2 million supplemental to operate the Office of the Secretary for the Department. We are not asking for $33 million, we are asking for $31 million. The $28.4 million is inadequate to carry out his responsibility and that is why he is requesting a supplemental.

Senator WEICKER. Mr. Funk, do you want to go ahead and have your statement in the record in its entirety and we will be glad to have you summarize it.

Mr. FUNK. I will summarize it briefly.

About a year ago, Mr. Chairman, the Merit Systems Protection Board conducted a survey of all Government employees. The survey revealed that the employees of the Commerce Department rank very very high in personal knowledge of fraud, waste, and abuse, but oddly enough they also ranked the lowest of all agencies in the Federal Government in their reporting of such activities. Basically they gave several reasons for their reluctance to come forward.

The first, of course, was the fear of reprisal. They were afraid of harrassment, they were afraid of being fired if they blew the whistle.

For many reasons they were not aware of the role of the IG. They were not aware he was required by law to protect their anonymity. One reason that many gave was most alarming to me, they said they did not report known examples of fraud, waste, or abuse because they thought that nothing would be done about it. In effect what they're saying, if you can't fight city hall, you certainly can't fight Uncle Sam.

That was the situation that I found when I came on board. I found it most disturbing.

I would like to report to you today that we have what I regard as a dramatic turn-around. During the past year we have opened 299 investigations, we have furnished evidence that led to 10 criminal convictions, 22 indictments—6 of these were related to illegal fishing in American waters—9 dismissals or resignations, and 5 disciplinary actions. All of these were well-publicized. And that is about twice the number that was achieved in the previous year. In addition, we have made many other recommendations for disciplinary action which are still working their way through the bureaucracy.

In other words, the employees of the Department and of our contractors and grantees, now see that something is actually happening when they do come forward. As a result, our complaints coming in over our hotline have doubled, and we have a surprisingly large number of employees, some of them quite senior who come forward and complain about wrongdoing that they regard as examples of program waste.

The Secretary has already commented on our audit resolution achievement, so I shall not repeat that.

We have made what I regard as some extraordinary achievements. We have gone from a backlog of 1,000 findings and recommendations to 154 contract and grant reports and 7 management audit recommendations. I am confident that we shall be at or very near a zero backlog by the end of this month.

Another thing we are doing is putting a lot more attention in areas that have not received too close a look by the IG in previous times, particularly NOAA, the U.S. commercial services of ITA, the Bureau of the Census, the Patent and Trademark Office, and the National Bureau of Standards.

I should say that all this activity that we have engaged in does require resources, many of them painful for us to allocate. In one example, where the Department was bilked out of $280,000, we have had to tie up for a couple of months the entire investigative staff of one region and the entire audit staff of a district office to get the necessary evidence to present to a grand jury. We have another case involving many millions of dollars where we have a substantial commitment of resources. Because we hope to obtain civil prosecution in both cases, with the potential of triple damages, I regard these as justifiable investments, in addition to their deterrent value.

Mr. Chairman, we are asking $7,774,000 in new obligation authority and 186 total positions, which "straight-lines" our current staff authorization. I regard this budget and staff as the irreducible minimum needed to perform the mission mandated for me in the Inspector General Act of 1978.

PREPARED STATEMENT

If you have any questions, I will be happy to answer them.

[The statement follows:]

STATEMENT OF SHERMAN M. FUNK

A GOVERNMENT-WIDE SURVEY CONDUCTED A LITTLE MORE THAN A YEAR AGO BY THE MERIT SYSTEMS PROTECTION BOARD FOUND THAT EMPLOYEES OF THE COMMERCE DEPARTMENT RANKED VERY HIGH IN THEIR PERSONAL KNOWLEDGE OF ILLEGAL OR WASTEFUL ACTIVITY . . . BUT ALSO RANKED LOWEST OF ALL AGENCIES IN THEIR WILLINGNESS TO REPORT SUCH ACTIVITY.

COMMERCE EMPLOYEES GAVE SEVERAL REASONS FOR THEIR RELUCTANCE TO COME FORWARD. ONE, OF COURSE, WAS FEAR OF REPRISAL; THEY WERE AFRAID OF HARRASSMENT, OR EVEN OF BEING FIRED, IF THEY BLEW THE WHISTLE. ANOTHER REASON WAS THAT MANY SIMPLY DID NOT KNOW HOW TO PASS INFORMATION TO SOMEBODY WHO WOULD KEEP THEIR NAMES CONFIDENTIAL; THEY EITHER HAD NOT YET HEARD OF THE INSPECTOR GENERAL, OR WERE NOT AWARE THAT WE ARE REQUIRED BY LAW TO PROTECT THE ANONYMITY OF INFORMANTS.

BUT THE REASON MOST OF THEM GAVE WAS MORE DISTURBING: THEY SAID THAT THEY DID NOT REPORT KNOWN EXAMPLES OF FRAUD, WASTE OR ABUSE BECAUSE THEY THOUGHT THAT NOTHING WOULD BE DONE ABOUT IT. WHAT THEY WERE SAYING, IN EFFECT, IS THAT IF YOU CAN'T FIGHT CITY HALL, YOU CERTAINLY CAN'T FIGHT UNCLE SAM.

THAT WAS THE SITUATION -- AND THE CHALLENGE -- I FOUND WHEN I CAME ON BOARD AS IG. THE FIRST THING I WANT TO REPORT TO YOU TODAY IS THAT WE HAVE BEGUN TO MAKE A DRAMATIC TURN-AROUND. DURING THE PAST YEAR WE HAVE OPENED 299 INVESTIGATIONS, AND HAVE FURNISHED EVIDENCE WHICH HAS LED TO 10 CRIMINAL CONVICTIONS, 22 INDICTMENTS (SIX OF THESE, RELATED TO ILLEGAL FISHING IN U.S. WATERS, WE HANDLED JOINTLY WITH NATIONAL MARINE FISHERIES SERVICES INSPECTORS), NINE DISMISSALS OR RESIGNATIONS, AND FIVE DISCIPLINARY ACTIONS -- ALL OF THEM WELL PUBLICIZED THROUGHOUT THE DEPARTMENT. THIS IS ABOUT TWICE THE NUMBER ACHIEVED DURING THE PREVIOUS YEAR. IN ADDITION, WE HAVE MADE MANY RECOMMENDATIONS FOR DISCIPLINARY ACTION WHICH ARE STILL WORKING THEIR WAY THROUGH THE SYSTEM.

THUS, EMPLOYEES OF THE DEPARTMENT, AND OF OUR CONTRACTORS AND GRANTEES, NOW SEE THAT SOMETHING ACTUALLY DOES HAPPEN WHEY THEY BLOW THE WHISTLE. AS A RESULT, COMPLAINTS COMING IN OVER OUR HOTLINE HAVE DOUBLED, AND WE GET A SURPRISINGLY LARGE NUMBER OF EMPLOYEES (MANY OF THEM QUITE SENIOR) WHO VISIT US IN PERSON TO COMPLAIN ABOUT WRONGDOING OR EXAMPLES OF PROGRAM WASTE.

ON THE AUDIT SIDE, WE HAVE ISSUED IN THE LAST YEAR ABOUT 30 MANAGEMENT REPORTS AND OVER 2,700 CONTRACT, GRANT AND LOAN AUDIT REPORTS, IN ADDITION TO THE INCREASING PREVENTIVE WORK WE DO IN SUCH AREAS AS VULNERABILITY ASSESSMENT, AND HELPING THE DEPARTMENT TO IMPROVE ITS INTERNAL CONTROL AND FINANCIAL SYSTEMS. ALSO, RECOGNIZING THAT COMMERCE IS PLAYING A MORE SIGNIFICANT ROLE IN TRADE AND ECONOMIC AFFAIRS, WE HAVE BEEFED UP OUR AUDIT EFFORTS IN THESE AREAS. WE THEREFORE ARE GIVING MUCH CLOSER ATTENTION THAN EVER BEFORE TO THE FOREIGN AND U.S. COMMERCIAL SERVICE, TO THE CENSUS BUREAU, TO NOAA ACTIVITY IN FISHERIES AND WEATHER SERVICE, TO THE PATENT AND TRADEMARK OFFICE, TO THE NATIONAL BUREAU OF STANDARDS, AND TO THE NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION. THIS YEAR, WE ALSO ARE EVALUATING THE PERFORMANCE OF THE MINORITY BUSINESS ASSISTANCE PROGRAM IN GREAT DETAIL.

THE CONGRESS AND OMB HAVE EXPRESSED JUSTIFIABLY DEEP CONCERN ABOUT UNRESOLVED AUDITS. IT DOES LITTLE GOOD TO EXAMINE THE RECORDS OF CONTRACTORS AND GRANTEES, QUESTION COSTS WHICH APPEAR UNWARRANTED, AND THEN LET THESE QUESTIONS REMAIN UNANSWERED. FRANKLY, I INHERITED A BAD SITUATION HERE. LAST MARCH, THE DEPARTMENT HAD 766 CONTRACT AND GRANT AUDIT REPORTS WITH QUESTIONED COSTS WHICH HAD NOT BEEN RESOLVED AFTER SIX MONTHS, AND 234 MANAGEMENT AUDIT RECOMMENDATIONS NOT RESOLVED AFTER SIX MONTHS . . . A TOTAL BACKLOG OF 1,000 FINDINGS AND RECOMMENDATIONS. I AM PLEASED TO REPORT THAT IN NINE MONTHS, BY DECEMBER 31, WE HAD BROUGHT THIS BACKLOG DOWN TO 154 CONTRACT AND GRANT REPORTS AND 7 MANAGEMENT AUDIT RECOMMENDATIONS. I AM

CONFIDENT THAT WE SHALL BE AT OR VERY NEAR A ZERO BACKLOG BY THE END OF THIS MONTH. IN VIEW OF THE FACT THAT WE HAVE TO PROCESS THOUSANDS OF NEW REPORTS THROUGHOUT THE YEAR, AT LEAST HALF OF WHICH CONTAIN QUESTIONED COSTS OR RECOMMENDATIONS REQUIRING RESOLUTION, I BELIEVE THAT THIS REPRESENTS AN EXTRAORDINARY ACHIEVEMENT.

ALL OF THESE EFFORTS NEED AN ALLOCATION OF RESOURCES, SOME OF THEM CONSIDERABLE AND MANY OF THEM PAINFUL. FOR EXAMPLE, IN THE CASE OF JUST ONE GRANT, WHERE THE DEPARTMENT WAS BILKED OUT OF $280,000, WE HAVE HAD TO TIE UP FOR A COUPLE OF MONTHS THE ENTIRE INVESTIGATIVE STAFF OF ONE REGION AND THE ENTIRE AUDIT STAFF OF A DISTRICT OFFICE TO GET THE NECESSARY EVIDENCE TO PRESENT TO A GRAND JURY. IN ANOTHER CURRENT CASE, FAR MORE COMPLEX AND INVOLVING A MUCH LARGER SUM, OUR COMMITMENT OF PEOPLE IS EVEN LARGER. BECAUSE WE HOPE TO OBTAIN CIVIL PROSECUTION IN BOTH CASES, WITH THE POTENTIAL OF TRIPLE DAMAGES, I REGARD THESE AS JUSTIFIABLE INVESTMENTS, IN ADDITION TO THEIR DETERRENT VALUE. NEVERTHELESS, SUCH MASSIVE COMMITMENTS OF SCARCE RESOURCES HURT.

I RECENTLY HAVE REORGANIZED THE OFFICE OF INSPECTOR GENERAL TO GIVE ME GREATER FLEXIBILITY IN MANAGING OUR PEOPLE AND PROGRAMS, AND TO INTRODUCE A NUMBER OF IMPORTANT FUNCTIONS DESIGNED TO FILL GAPS IN, AND IMPROVE, OUR OPERATIONS. THESE INCLUDE A NEW VULNERABILITY ASSESSMENT OFFICE, A TIGHT QUALITY CONTROL PROGRAM THAT WILL SPEED UP OUR RESPONSE TIME, AND AN EVALUATION EFFORT TO ASSESS HOW WELL WE ARE DOING OUR OWN JOB.

FOR FY 1983, I AM REQUESTING $7,774,000 IN NEW OBLIGATIONAL AUTHORITY AND 186 TOTAL POSITIONS, WHICH "STRAIGHT-LINES" OUR CURRENT STAFF AUTHORIZATION. I REGARD THIS BUDGET AND STAFF AS THE IRREDUCIBLE MINIMUM NEEDED TO PERFORM THE MISSION MANDATED FOR ME IN THE INSPECTOR GENERAL ACT OF 1978.

I SHALL BE PLEASED TO ANSWER ANY QUESTIONS YOU MAY HAVE.

EMPLOYEES AWARDED FOR DISCLOSURE CASES

Senator WEICKER. Has not a new system been implemented where employees are financially rewarded for disclosure of fraud, waste, or abuse cases?

Mr. FUNK. It has not been initiated. The law passed during last July's Reconciliation Act. We have not implemented it. To my knowledge, none of the Federal agencies have fully implemented it. They are preparing regulations for it now.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. I have other questions which I will submit for the record. Thank you very much.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

OCTOBER 1981 PAY RAISE SUPPLEMENTAL

How much of the October pay raise and lifting the pay cap will be absorbed? Will we receive a supplemental for pay? If so, how much and when?

At the present time General Administration has absorbed the pay increase. However, there is a pending request being considered by OMB. The Department is waiting for OMB's decision.

PROGRAM SUPPLEMENTAL

Last Fall during Congressional action on H.R. 4169, the House and Senate reduced funding for the General Administration account by 15 percent or $5 million below the September revised budget. The subsequent continuing resolution, P.L. 97-92 signed by the President on December 15, 1982, maintained the same level of funding at $28.4 million.

You are now requesting a program supplemental for General Administration for $3.2 million. What aspects of this request have changed since last year which will convince this Committee to support this request for augmented funds?

The Department continues to maintain that funds provided under the Continuing Resolution are inadequate to support vital management functions.

Since the Department first advanced this position last year, OMB has also acknowledged the funding inadequacy by supporting our transmittal to Congress of a program supplemental of $3,171,000.

Further, the continued lack of a permanent appropriation for FY 1982 has prevented the Department from taking certain actions, such as large scale reductions in force, that would pre-empt the options of the Congress and Administration in determining final funding levels for General Administration.

Finally, the Office of the Secretary has incurred additional responsibilities which further dictate the resources requested are essential to the management of the Department. One area of increased activity arises from the filing of a large number of major anti-dumping and countervailing duty suits by American steel corporations and the subsequent suspension of the trigger price mechanisms. These suits have increased the workload tremendously in both the Office of General Counsel and the Office of Inspector General.

FY 1982 REDUCTIONS

A 15 percent reduction does not seem to be out of line with overall reductions in the Department in FY 1982 as compared to FY 1981. Personnel were reduced by 18 percent (41,500 - 34,950) and programs were reduced by 23 percent ($2,253,000,000 - $1,720,318,000). Why can't General Administration absorb this 15 percent reduction?

The General Administration account is personnel intensive. Approximately 80% of the budget is consumed by payroll and related costs. To absorb a 15%, or any other size, reduction below the revised estimate would involve reductions in force and massive furloughs. With the appropriations process not complete, we believe such actions are inappropriate.

Further the revised budget proposed by the Administration already represents the minimum funding requirements necessary to support the Secretary, having been cut substantially from the Carter Administration's Request for 1982. Personnel has been reduced 102 positions or 15%, and the funds requested are $5.1 million or 14% less than the previous Administration's estimates.

To add an additional 15% reduction on top of those cuts already taken would seriously jeopardize the Secretary's ability to manage the Department. Moreover, the additional cuts would impair the very programs that are underway to consolidate functions and eventually return positions and dollars to the bureaus for improved program delivery.

COMMITTEE'S REPROGRAMMING REQUIREMENTS

The reprogramming requirements of both House and Senate Committees requires notification 15 days in advance of such reprogramming of funds if the obligation on expenditure, "increases funds or personnel by means for any project or activity for which funds have been denied or restricted;".

The Secretary's letter to me dated March 1, 1982 stated that he does not consider actions taken by the Department to constitute an augmentation of appropriations for General Administration. What do you call it?

It is the Department's position that the proposed action to charge our bureaus for reimbursement of services does not constitute a reprogramming of funds since it will not involve transferring funds from one line item to another within a single appropriation. In a letter to Senator Weicker dated March 15, 1982, the Comptroller General agreed that charging the bureaus as proposed by the Department would not constitute a reprogramming. The letter also concluded that a violation of 31 U.S.C. 628-1 would occur when the bureaus subsequently use their appropriations to pay the charges billed to them. The question of whether or not a Department bureau official's action would violate a Federal statute is one that would be resolved by the Attorney General, as the ultimate arbitrator of such matters within the Executive Branch, rather than the Comptroller General, whose letter to Senator Weicker constitutes an advisory opinion on that matter. In view of the GAO opinion and your concerns surrounding it however, no action will be taken by any Departmental official to pay reimbursements out of their appropriations without first obtaining an opinion from the Attorney General as to the legality of this payment.

MERIT PAY AND BONUSES

How many Senior Executives received bonuses last year and what was the total cost? How many received no bonus?

In the GA account, four out of 26 SES career executives received bonuses in FY 82. This compares to six recipients out of 25 in FY 81.

Departmentwide, 19% of the 359 SES career executives received bonuses. See detailed chart below:

SES Bonus awards Paid in FY 1982

(Based on FY 1981 Performance)

Organization	Number of Awards	Total Dollar Value
General Administration	4	$28,063.11
BEA	3	11,024.75
BIE	3	14,532.62
Census	4	18,040.50
Economic Affairs	1	8,018.00
USTTA	1	2,505.62
EDA	2	10,022.62
ITA	4	28,564.37
NBS	21	114,257.11
NOAA	20	103,733.36
P&TO	5	32,573.25
Total	68	$371,335.31

How many mid-level employees received merit pay bonuses? What percentage of the total number eligible received bonuses? Of those who received bonuses, what percentage received the full amount for which they were eligible?

	Mid-Level
Departmentwide --	4529
General Administration --	750

	Total
Departmentwide --	99%
General Administration --	98%

Percentage Receiving Full Amount

Full amounts were provided only to employees of the merit pay population receiving Outstanding performance ratings: 23 percent Departmentwide and 22 percent in General Administration. However, as a result of the GAO decision limiting the size of the Merit Pay Pool, no merit pay employee of the Department, including those receiving Outstanding ratings, received a total increase which was equal to a comparability adjustment and a step increase.

ECONOMIC DEVELOPMENT ADMINISTRATION

STATEMENT OF CARLOS CAMPBELL, ASSISTANT SECRETARY FOR ECONOMIC DEVELOPMENT

ACCOMPANIED BY:

CHARLES WARNER, DEPUTY ASSISTANT SECRETARY FOR ECONOMIC DEVELOPMENT
EDWARD LEVIN, CHIEF COUNSEL
GEORGE MULLER, ACTING DIRECTOR, OFFICE OF BUSINESS LOANS
BRIAN WHALEN, BUDGET OFFICER
DAVID McILWAIN, FINANCIAL ANALYST
ARLENE TRIPLETT, ASSISTANT SECRETARY FOR ADMINISTRATION
NANCY RICHARDS, DIRECTOR, OFFICE OF BUDGET

BUDGET REQUEST

Senator WEICKER. Our next request is that of the Economic Development Administration. The amount requested is $15,488,000, a decrease of $208,500,000 from the 1983 base, and provides for 230 permanent positions. The financial assistance programs will be eliminated and the requested resources will be used solely to monitor and close out previously approved projects.

Appearing on behalf of this request is Carlos Campbell, Assistant Secretary for Economic Development, accompanied by various members of his staff.

Mr. Campbell, your statement, if you have one, will be included in the record at this point. I would appreciate you summarizing it.

Mr. CAMPBELL. Thank you, Mr. Chairman. I would like to introduce Charles Warner, Deputy Assistant Secretary for Economic Development; Edward Levin, Chief Counsel; and George Muller, Acting Director, Office of Business Loans. I will summarize my statement and be as brief as possible.

SUMMARIZED STATEMENT

Mr. Chairman, President Reagan's call for a new federalism necessitates a reduction in the rate of growth in Government.

Consistent with the objectives of the President's economic recovery program, which is a "blueprint for growth and prosperity," this administration continues to propose the phase out of the Economic Development Administration.

The principal point I make on my first page is that the real source of jobs is the private sector.

Second, I point out that Government borrowing has increased from 30 to 43 percent during the 1977–81 period. This rise in Government

borrowing has forced higher rates upon both the private and public sector and consequently has been counterproductive.

I point out with respect to increased capacity of the States that since the inception of the EDA, the States and local levels of government have acquired a significant capacity to coordinate and conduct economic development activities. This expansion of the States' and local governments' capacity to provide the needed economic development in their respective jurisdictions has caused a considerable and unwarranted duplication of public resources. State resources directed to local needs have increased dramatically. Total State aid to localities funded from the States' own revenues grew nearly sixfold from 1965 to 1980, and now surpasses $60 billion per year.

Furthermore, pointing out other Federal resources, the community development block grant program has over $1 billion set aside for the States this year.

The critical issue which we feel cannot be overlooked is the proliferation of designated areas within this Nation which are eligible for EDA assistance. These areas have increased from about 12 percent of the country since the inception of EDA to over 80 percent within recent years. The virtual blanketing of many States and regions precludes the targeting of resources where they can be most effective.

For this fiscal year, we have three objectives we wish to achieve.

One, to fully comply with the intent of Congress as indicated in the Omnibus Budget Reconciliation Act. Accordingly, we are actively processing "authorized" applications for public works projects, planning grants, and other program areas within the context of the current continuing resolution.

I would like to point out that for the first time, with the exception of the local public works program, we have used the Federal Register to inform prospective applicants on the availability of funds and project selection criteria.

We expect to complete processing of over 75 percent of the public works applications prior to May 31 and the balance shortly thereafter.

I will end by saying that we have taken steps to manage EDA like a business, and as appropriate, exercise prudence, and accountability.

In terms of our financial management practices, we do examine the work-out or debt restructuring alternatives in an effort to assist troubled firms so that jobs can be retained. When this is not possible, we must protect the interest of the Government, and maximize our recovery through the liquidation process.

Thus far for fiscal year 1982, we have obligated over $50 million for coverage of defaults and expenses related to the care and protection of collateral. We do have sufficient resources in the economic development revolving fund to cover the total level of demand that we expect could be necessary in this fiscal year, that would be about $97 to $98 million.

At present, the EDA portfolio consists of 764 loans with a total outstanding balance of $600.5 million, and 165 guarantees which total $610.6 million in Government liability.

In the public works and adjustment grants area, in addition to the major workload associated with the processing of new projects, we are monitoring closely the progress of 1,122 construction projects which have been approved but have not yet been closed out; the value of these projects is $987 million.

The third objective we have is operating within the limits of our budget request for salaries and expenses.

The current budget provides for an end-of-year staffing level of 380 for fiscal year 1982. We are requesting $15.4 million for salaries and expenses for fiscal year 1983; this will support 275 staff years of effort to carry out our monitoring responsibilities.

I would like respectfully to invite your attention to the fact that this administration is committed to economic development in the real sense, and this is through the Economic Recovery and Tax Act—the focus of which is American business.

PREPARED STATEMENT

Thank you, Mr. Chairman. This concludes my summary of my prepared statement, which I will submit for the record.

[The statement follows:]

STATEMENT OF CARLOS C. CAMPBELL

President Reagan's call for a new federalism necessitates a reduction in the rate of growth in Government.

Consistent with the objectives of the President's Economic Recovery Program, which is a "blueprint for growth and prosperity," this Administration continues to propose the phase out of the Economic Development Administration.

President Reagan's fiscal year 1983 budget request is designed to bring the growth of Federal spending down from the historic high of 17.4 percent in fiscal year 1980 to a rate of 4.5 percent in fiscal year 1983. Accordingly, the Administration proposes no new program funding for EDA during fiscal year 1983. We will, however, retain adequate staff to ensure that previously approved projects are properly closed out and that the loan and guarantee portfolio is effectively managed with emphasis on debt collection.

The proposal to phase out EDA, announced initially within the context of President Reagan's Economic Recovery Plan in 1981, clearly recognizes that the real source of jobs is through the private sector. The President's plan is a road map to a sound and stable economy through strong economic growth.

Considering the divisions of the American economy in terms of consumption, investment, and Government, we must understand that there is competition among these divisions for dollars within credit markets. Current available credit in the marketplace is subject to limitations as directed by Federal Reserve Board actions and is presently structured to contain inflationary influences from previous demand levels. Government borrowing has increased from 30-43 percent during the 1977-1981 period. This rise in Government borrowing has forced higher rates upon both the private and public sector and consequently has been counter-productive.

Since the inception of EDA, the States and local levels of government have acquired a significant capacity to coordinate and conduct economic development activities. This expansion of the States' and local governments' capacity to provide the needed economic development in their respective organizations has caused a considerable and unwarranted duplication of public resources. State resources to local needs have dramatically increased. Total State

aid to localities funded from the States' own revenues grew nearly six-fold from 1965 to 1980, and now surpasses $60 billion per year.

Furthermore, in 1982, the Community Development Block Grant program has over $1 billion set aside for the States. This money can be directed to promote economic development in small cities and rural areas and coordinated through the Governors' offices.

The Federal budget for fiscal year 1983 includes $3.4 billion overall for the HUD administered Community Development Block Grant program and $440 million for Urban Development Action Grants. The Farmers Home Administration has $120 million for water and disposal project grants, which is a rural area program.

A critical issue which should not be overlooked is the proliferation of designated areas within this Nation that are eligible for EDA assistance. These areas have increased from about 12 percent of the country since the inception of EDA to over 80 percent within recent years. The virtual blanketing of many States and regions precludes the targeting of resources where they can be most effective.

We have three specific management objectives to achieve during the balance of this fiscal year.

One, to fully comply with the intent of Congress as indicated in the Omnibus Budget Reconciliation Act. Accordingly, we are actively processing "authorized" applications for public works projects, planning grants, and other program areas within the context of the current Continuing Resolution.

Except for the 1976/1977 Local Public Works program, EDA for the first time is using the Federal Register to inform prospective applicants on the availability of funds and project selection criteria. These notices will address public works, economic distress, planning and technical assistance.

In early February, the Regional Directors received instructions for processing potential public works projects. They have since responded with an assessment of initial feasibility as to what can be achieved within the next few months. We expect to complete processing of over 75 percent of the public works applications prior to 31 May and the balance shortly thereafter.

The Technical Assistance program, in part, will support export development activities. The current trade deficit is about $30

billion. The International Trade Administration estimates that this Nation loses about 30,000 jobs for each billion dollars of deficit.

Planning grants to over 500 agencies were funded through December 31, 1981, using fiscal year 1981 funds. We are moving as fast as possible to process renewals of four to six months for all qualified grantees. We have delegated to the Regional Directors the authority to grant no-cost time extensions.

With respect to the Economic Adjustment program, we will give priority consideration to States with the highest levels of economic distress, based on unemployment rates and total numbers of unemployed persons in addition to other selection criteria.

Secondly, we have taken steps to manage EDA like a business, and as appropriate, exercise prudence and accountability.

As a matter of our financial management practices, we do examine work out or debt restructuring alternatives in an effort to assist troubled firms so that jobs can be retained. When this is not possible, we must protect the interest of the Government, and maximize our recovery through the liquidation process.

Thus far in fiscal year 1982, we have obligated over $50 million for coverage of defaults and expenses related to the care and protection of collateral. We expect that our total requirement for fiscal year 1982 could be as high as $97 million. There are sufficient resources in the Economic Development Revolving Fund to cover this level of demand should it occur. We believe that adequate resources will be available in the Revolving Fund in fiscal year 1983 to meet any foreseeable demand. This, of course, assumes that no direct program activity would be supported from the Fund and that assets would remain available for covering defaults and related expenses.

At present, the EDA portfolio consists of 764 loans with a total outstanding balance of $600.5 million, and 165 guarantees which total $610.6 million in Government liability.

In the public works and adjustment grants areas, in addition to the major workload associated with the processing of new projects, we are monitoring closely the progress of 1,122 construction projects which have been approved but have not yet been closed out; the value of these projects is $987 million.

Our third and final objective is to operate within the limits of our budget request for Salaries and Expenses.

The current budget provides for an end of year staffing level of 380 for fiscal year 1982. We are requesting $15.4 million for Salaries and Expenses for fiscal year 1983; this will support 275 staff years of effort to carry out our monitoring and portfolio management responsibilities. The budgeted end of year staffing level for fiscal year 1983 is 230.

Obviously, major consolidation and perhaps reorganization will be necessary and appropriate. At this point, we are only beginning to assess in detail our management plans for next year; obviously, our major effort now is focused on processing projects as promptly and efficiently as possible. As our plans develop, we will, of course, advise the interested committees of the Congress.

In closing, I respectfully remind you that this Administration is committed to economic development - in the real sense - and this is through the Economic Recovery and Tax Act - the focus of which is American business. We are already seeing signs of recovery. The "quick fix" approaches of the past are counter-productive.

Thank you, Mr. Chairman, that concludes my prepared statement. My associates and I will be pleased to address any questions the Committee may have.

Senator WEICKER. I am going to let Senator Bumpers lead off the questioning.

America is not recovered; it is flat on its tail, the very elements of our society which EDA was meant to help. Right now I see nothing but a lot of hope out there. I am always willing to accept changes to the extent that we bring something on stream while you are phasing out something. That has not been done here. Something has been cut out and then we sit there with our hands clasped praying for something to happen.

I applaud the President on the initial tax bill to increase capital. But I don't see how that translates into helping people with EDA. I realize you are closing out the program, so there is not much point in talking about it, but don't waive any propaganda around here on what a great world it is out there, not when as chairman of the Small Business Committee I see 525 go belly-up in 1 week in February—that is the highest in 40 years—when I see 2,500 bankruptcies from the beginning of the year to date as compared to 1,300 last year. It is a wrong time to claim victory.

Mr. CAMPBELL. Mr. Chairman we are not claiming victory. We are trying to clarify, what I feel has been a tremendous misunderstanding about the whole issue of the economic recovery insofar as the Economic Development Administration is concerned. In this regard, I will say that first of all we don't really create jobs unless the economy is expanding.

The other thing, in terms of resources available through EDA, this year the budget on the per capita basis amounted to something like $1.12. The other thing that we are particularly concerned about is the point the Secretary mentioned. We have fairly significant trade deficits of about $30 billion which I know you are fully aware of. For each billion in that deficit we lose about 30,000 jobs.

We are also concerned with the productivity issue. We think in some respects that States need the capacity to talk resources. When you say we have put nothing in its place, I would only say, first of all, we feel quite strongly that in many respects the Federal Government has been a tremendous obstacle.

Senator WEICKER. I don't want to go through this whole routine—we have volunteers, and the private sector is going to do it all and the States are going to do it all. You are getting the word. They can't do it. You see those unemployment figures?

Mr. CAMPBELL. I see them.

Senator WEICKER. These are statistics. This isn't propaganda, it is not editorializing. This isn't the Carter economic plan, this is the Reagan economic plan. All I am saying to you, Mr. Campbell, I think under the present circumstances were I you, I would low-key it and hope to God something happens. I would not get out there and continue to claim the great advantages of this economic program. I think you need to do a little adjustment and I think everybody out there needs an equal adjustment from the biggest business to the littlest guy out of work. I am only sorry that these important programs that have proved

to be so successful are no longer so. They were very useful vehicles to assist the particular needs that came along.

I do quit the community development block grant, and you cite UDAG, the community development block grants are reduced by 6 percent and UDAG by 35 percent. So don't look at that, they are starting to get the same treatment. And I can assure you that UDAG and small business programs, et cetera would not disappear if we were in a strong economy, and the reason is very simple: a business is concerned with the bottom line profit and that does not include any philantropic acts of going into the inner cities and into the poor rural areas.

Senator Bumpers.

FURLOUGH OF EDR'S

Senator BUMPERS [presiding]. Mr. Campbell, why has EDA proposed a furlough of EDR's?

Mr. CAMPBELL. We proposed furloughing the EDR's because we did a study and we found that their functions were about 85 percent obsolete by virtue of the fact we were not going to initiate new program activity through the balance of this fiscal year. In 1982 we had a substantial backlog of authorized application and portfolio to process that did not necessitate further assistance from the EDR's.

Senator BUMPERS. How do you reconcile that with the continuing resolution where you were directed to maintain 47 EDR's. If I understand furloughing, that means without pay?

Mr. CAMPBELL. Yes, sir; without pay.

Senator BUMPERS. How do you reconcile Congress' mandate that you keep them?

Mr. CAMPBELL. First of all, let me say that we have not furloughed them. We proposed the furlough as a necessary method to work within our budget. I took the opinion from General Counsel, who said what we were doing was legal.

GAO OPINION ON FURLOUGH OF EDR'S

Senator BUMPERS. What did GAO say?

Mr. CAMPBELL. This was before the GAO opinion. I am giving you the steps.

Senator BUMPERS. We can look forward, then, to a reversal of these furloughs in light of the GAO opinion?

Mr. CAMPBELL. The GAO opinion, as I understand, is being modified because there were some deficiencies in the opinion that they issued. I do not have any "hard copy" as of this morning from the Comptroller General to clarify that opinion. That will be forthcoming. Until that time, everything is on hold. Certainly we are not doing anything illegal and what we did we served notice of what we intended to do. It did not go into effect.

Senator BUMPERS. Are you familiar with the letter that your boss sent to Neal Smith, chairman of the subcommittee over in the House?

Mr. CAMPBELL. Yes, sir.

Senator BUMPERS. You saw that letter?

Mr. CAMPBELL. Yes; I did.

Senator BUMPERS. You said we have held discussions and we will retain 47 EDR's as mandated by the continuing resolution.

Mr. CAMPBELL. Yes, sir.

Senator BUMPERS. I don't understand this. It is confusing. The law says you have to keep your EDR's, GAO says you have to and yet you are sending out notices to EDR's that they are furloughed.

Mr. CAMPBELL. Let me point out something, first of all, I will assure you that we will do everything in a legal manner. As you are well aware, there is a difference between how I want to manage the agency and the tools that I feel I have available and the intent of the Congress with respect to certain structure that I have a desire to maintain.

We did not internally start the problem. Last fiscal year we had intended to effect a reduction in force throughout all of the EDA. We were precluded from doing this as related to the EDR's. As a result we had a shortfall on salaries and expenses which we had to compensate for.

In summary, I would say we tried to negotiate in good faith the extent to which that was appropriate with various Members of the Congress who expressed a concern with this issue. To my chagrin, I would say that we were not successful in doing that. We only took steps that we thought were prudent.

1982 PROGRAM FUNDS

Senator BUMPERS. Mr. Secretary, how much money do you have left for programs under 1982 funds? How much money was in your budget for 1982?

Mr. CAMPBELL. For 1982 we have $99,250,000.

Senator BUMPERS. That was your total budget for the year?

Mr. CAMPBELL. For the full year $198.5 million; $99,250,000 was what has been apportioned to us through the end of this month.

Senator BUMPERS. How much of the remaining money will be used for new grants, loans, et cetera? Can you give me an idea?

LOANS

Mr. CAMPBELL. Let me go through this by line. In terms of new loans we have $15 million available for direct loans. We would expect to use about $5 million of that for restructuring some current loans. We would estimate $10 million would go for new loans. In planning, virtually all of the $12.75 million will go to——

PLANNING GRANTS

Senator BUMPERS. $7.5 million?

Mr. CAMPBELL. $12,750,000. That is just about 100 percent, I might be a bit off, will go to existing grantees, over 500 grantees that were funded during prior years for technical assistance, out of the $4 million there, we have to fund the university centers. In terms of new programs out of technical assistance, about $2.5 million. For economic adjustment

we would hold back $4 million of the title IX program for emergencies; the balance will go through the States with the highest degree of economic distress.

So, to answer your initial question, new activity in summary would be between $25 and $30 million. I can give you the precise figure for the record.

Senator BUMPERS. Would you do that for me?

Mr. CAMPBELL. Yes, sir.

[The information follows:]

STATUS OF PROJECT ACTIVITY BY PROGRAM AS OF MARCH 31, 1982

[Amounts in thousands]

Program activity	Approvals	Pipeline authorized renewals profiles[1]	Potential new project proposals	Total
Public works	$7,234	$122,766		$130,000
Economic adjustment assistance		14,400	$18,600	33,000
Technical assistance		4,400	3,600	8,000
Planning	026	25,200	274	25,500
Research and evaluation	217	283	1,500	2,00
Total	7,477	167,049	23,974	198,500

[1] Includes only those public works and title IX profiles that will have their status upgraded to the "authorized" phase.

BALANCE OF MONEY

Senator BUMPERS. What will happen with the balance of the money?

Mr. CAMPBELL. All of the money apportioned will be used.

Senator BUMPERS. When you say "apportioned," you had $109 million for——

Mr. CAMPBELL. Senator, if I could, since we are operating under the continuing resolution, we have from the Office of Management and Budget apportionment of one-half of the annual program to carry us for 6 months. Those are the only program funds that we can use.

Senator BUMPERS. You sent notices out effective March 31 also, right?

Mr. CAMPBELL. Layoff notices?

Senator BUMPERS. Yes.

Mr. CAMPBELL. No, sir.

Senator BUMPERS. In the 302 planning we put $25.5 million in the continuing resolution. That was the total amount of money that you had until March 31?

Mr. CAMPBELL. No, sir.

Senator BUMPERS. Was that an annualized basis?

Mr. CAMPBELL. Yes; for district planning we had $12,750,000. That is the amount apportioned through the end of March that we will use to fund the planning agencies for about 5 months.

Senator BUMPERS. How much do you have obligated?

Mr. CAMPBELL. We have not as of this date released those funds. What we have done is provide no-cost time extensions. I point out to

you, Senator, that in December or about December 15 we corresponded with them. We subsequently gave the authority to our regional directors to grant these no-cost extensions. We did not have official sanctions to go beyond that until we had the apportionment, which was about January 15. We sent specific instructions to the planning agencies advising them procedurally of what to do in order to be in line to get funded as soon as possible.

I would like to add that I have taken the initiative in order to expedite the process to send a memo to our Assistant Secretary for Administration, Ms. Triplett, to facilitate the processing of the planning grants that we had forwarded to the Department of Commerce.

NOTICE TO CITIES

Senator BUMPERS. Have you put anything in the Federal Register to notify the cities.

Mr. CAMPBELL. Senator, I signed off on that about 10 days ago. I cannot tell you whether it has been published.

JOBS CREATED

Senator BUMPERS. What is EDA's record on jobs created per dollar spent over the past 3 years? Could you give me that?

Mr. CAMPBELL. Senator Bumpers, I wish I could. I will be glad to do it for the record because, to be very frank, I have seen so many different figures that have been conflicting.

[The information follows:]

The attached chart, prepared previously by the Carter administration in support of its proposed 1982 EDA budget is the most recent attempt to quantify the job creation impacts of past EDA programs. It argues that the fiscal year 1982 appropriation level of $854,100,000 proposed by the Carter administration would create and save 121,200 jobs.

We question seriously the appropriateness of using such estimates in discussions of job creation. The methodology utilized does not consider what new jobs might have been created on a national basis had the funds been utilized differently. The importance of creating net new national jobs is an essential part of the administration's economic recovery program. To the extent past EDA programs have been successful at all, they have reallocated existing jobs, and there is no evidence that such activity has contributed to a more efficient and productive national economy.

ECONOMIC DEVELOPMENT ADMINISTRATION
JOBS CREATED AND SAVED
PRIVATE INVESTMENT LEVERAGED

FY	Public Investment			Direct Loans			Guarantees			Title IX			Total		
	Appro. (000)	Jobs	Lev. (000)	Appro. (000)	Jobs	Lev. (000)	Appro. (000)	Jobs	Lev. (000)	Appro. (000)	Jobs	Lev. (000)	Pro. Level (000)	Jobs	Lev. (000)
1966	200,000	114,200	480,000	103,000	26,300	71,100	(4,000)	1,000	6,700	-	-	-	307,000	141,500	557,800
1967	200,000	111,000	420,000	48,500	12,000	33,500	(6,000)	1,500	9,800	-	-	-	254,500	124,500	523,300
1968	175,000	94,000	420,000	49,000	11,800	33,800	(4,000)	1,000	6,700	-	-	-	228,000	106,800	460,500
1969	168,000	86,200	403,200	48,250	11,100	33,300	(7,000)	1,600	11,500	-	-	-	223,250	98,900	448,000
1970	158,000	76,900	379,200	49,650	10,800	34,300	(1,400)	300	2,300	-	-	-	209,050	88,000	415,800
1971	160,000	74,100	384,000	49,550	10,300	34,200	(200)	40	300	-	-	-	209,750	84,400	418,500
1972	190,000	85,500	456,000	45,000	9,100	32,000	(20,000)	4,000	32,800	-	-	-	255,000	98,600	520,800
1973	220,000	95,500	528,000	47,600	9,200	32,800	(24,000)	4,700	39,400	-	-	-	291,600	109,400	600,200
1974	174,000	69,100	417,600	19,900	3,500	13,700	(1,000)	200	1,600	-	-	-	194,900	72,800	432,900
1975	156,000	53,400	374,400	10,200	1,600	7,000	(68,000)	10,400	111,500	38,750	5,900	77,500	272,950	71,300	570,400
1976	208,000	67,900	499,200	63,150	9,200	43,600	(48,000)	7,000	78,700	96,000	14,000	192,000	415,150	98,100	813,500
1977	196,600	60,500	471,800	54,200	7,500	37,400	(19,000)	2,600	31,200	77,000	10,600	154,000	346,800	81,200	694,400
1978	189,500	54,400	454,800	101,300	13,000	69,900	(100,000)	13,000	164,000	99,650	12,800	199,300	490,450	93,200	888,000
1979	228,500	60,100	548,400	131,000	15,400	90,400	(119,000)	14,000	195,200	88,500	10,400	177,000	567,000	99,900	1,011,000
1980	293,200	71,000	703,700	77,330	8,400	53,400	(91,800)	9,900	150,600	43,800	4,700	87,600	506,130	94,000	995,300
Sub Tot.	2,916,800	1,173,800	7,000,300	897,630	159,200	620,400	(513,400)	71,200	842,300	443,700	58,400	887,400	4,771,530	1,462,600	9,350,400
1981 Continuing Resolution	350,425	78,400	841,000	85,000	8,500	58,700	(382,500)	38,300	627,300	36,175	3,600	72,350	854,100	128,800	1,599,350
1982 Proposed Budget	350,425	73,800	841,000	85,000	8,000	58,700	(382,500)	36,000	627,300	36,175	3,400	72,350	854,100	121,200	1,599,350
1981/1982 Subtotal:	700,850	152,200	1,682,000	170,000	16,500	117,400	(765,000)	74,300	1,254,600	72,350	7,000	144,700	1,708,200	250,000	3,198,700
Tot. 1966-1982:	3,617,650	1,326,000	8,682,300	1,067,630	175,700	737,800	(1,278,400)	145,500	2,096,900	516,050	65,400	1,032,100	6,479,730	1,712,600	12,549,100

COMMUNITY DEVELOPMENT BLOCK GRANTS

Senator BUMPERS. Those are always conjecture, aren't they, always subject to question depending on what kind of data base you use, what kind of formula you use for making those determinations?

I have thought because the administrative expense of EDA was relatively low compared to the number of dollars that went into the various programs, it was a pretty effective program. I know it has been in my State. It may not have been in some other places, and maybe this is one of those places where we ought to scale back. The President wants to bring Government to a halt, maybe this is a good starting place.

But I have felt, for example, that when it comes to new federalism, this is something States won't pick up and I have always thought it was a program worth saving because it has been so effective in my State. But it is very difficult for us to make a judgment if we don't have figures to justify the continuation of it.

In your statement you say that in the community development block grant program for this year, $1 billion will be set aside for the States. Do you know how much is in that program for 1983?

Mr. CAMPBELL. For community development block grants, $3.456 billion is requested, and $440 million for UDAG for fiscal year 1983; this is equal to what was provided for the two programs in 1982. I cannot speculate with respect to what the final amounts will be.

Senator BUMPERS. There is a total in HUD for 1982, $3.4 billion for the community development block grant. I have watched those community development block grant funds being used and in my opinion they don't create one-half as many jobs as EDA does. In my opinion, you can torpedo that program, and it is a good program in some places, but in my opinion you can take that $3.4 billion and put it in EDA and you will create twice, three times as many jobs, and that ought to be the name of the game in the country, creating jobs.

CREATING JOBS

Mr. CAMPBELL. That is the objective of this administration, creating jobs.

Senator BUMPERS. I would hate to be in your job having to go and sell that idea.

Mr. CAMPBELL. I believe it.

Senator BUMPERS. You really believe that?

Mr. CAMPBELL. Yes, sir, I do. There are only three things we do in our economy in terms of dollars; we use the money for either consumption, investment, or government. Up until, say, a decade ago the competition for dollars between these three components was not as significant as it has become recently. Consequently, when you have increase in the size of the Federal Government without State and local government, we reduce or pare the ability for investment or even the consumption. Consequently, when you have a reduction of the size we have, we have an opportunity to increase production.

The real problem in our economy seems to me has a lot to do with the lack of investment in plans and that is why I think to some degree

we have the low productivity that we have, and that we have the trade deficit that we have. These are far more significant. If we can reduce the size of Federal spending, then if the economy can expand we will have real jobs.

Senator BUMPERS. We can sit here all day and argue these economic theories about what is going on in the country, but we have roughly 22 percent of next year's budget of $750 billion for what we call discretionary funds and that is where the President wants to do all the cutting. He says, you can't touch anything else. Maybe if you want to cut social security he will agree with that but you can't touch defense. Even if the President's most favorable economic assumptions are borne out we will still have a $120 billion deficit in 1983 according to CBO.

If you were to try to balance the budget out of that 22 percent discretionary fund, that would leave you roughly between $30 and $40 billion to run the country. You stop Congress, you stop the Justice Department, you stop the Park Service, you just bring Government to a halt. And that is the reason that I am offended by his constant harping about taxation. Your taxes aren't too low, spending is too high. But, the ordinary fellow out there doesn't understand that only 22 percent of that money is discretionary. If you attach social security, defense, and interest on the national debt, you have a heck of a time.

When I was elected Governor, I was going to go to Little Rock and run the State like a business. I never saw anybody that ran for office who didn't think that. When I got there I found out I only had 13 percent discretionary funds and everything else was health and welfare and virtually untouchable.

I voted with the President in cutting the budget $35 or $40 billion last year and I cut a lot of things I didn't want to cut, EDA being one of them. When I did it I thought it made a lot of sense. But I didn't think the President was intending to bring Government to a halt, which is what he is planning to do.

Mr. CAMPBELL. Senator, there is actually no intent to bring Government to a halt. I just want to say that the intent of the 1983 budget request is to bring the growth of Federal spending down from the historic high of 17.4 percent in fiscal year 1980 to a rate of 4.5 percent in this fiscal year. It is reducing the rate of increase. We have no intention of bringing the government to a halt.

PRESENT STATUS OF EDR'S

Senator BUMPERS. Mr. Secretary, what is the present status of EDR's?

Mr. CAMPBELL. At this point I would like to ask Chief Counsel Levin to supplement this. The EDR's have been notified as of March of our intent to effect a furlough. That notice will be modified as soon as I have in writing the second opinion from the Comptroller General, which I understand will be forthcoming, and I assure you in the context of that language and all other appropriate language, we will treat the EDR's no different than we treat the other members of EDA with respect to furlough.

Would you like to respond, Mr. Levin?

Mr. LEVIN. Senator, the notification presently in the hands of the EDR's will be withdrawn. The reason for the uncertainty at the moment is that we have yet to receive clarification from the Office of the Comptroller General as to precisely what some of the statements meant; whether it is necessary that the EDR's remain in place throughout the fiscal year while everyone else in EDA is furloughed or whether it is permissible to furlough the EDR's along with the rest of the EDA employees.

Senator BUMPERS. In my opinion, Congress did not intend for the EDR's to be furloughed.

CBO says that in 1980 $507 million created between 75,000 and 90,000 jobs and created $2.5 billion in private investment. When the community development block grant can make that kind of claim, then I will champion their cause but those are very impressive statistics, when you consider the fact that we have almost 10 million people out of work.

LOANS IN LIQUIDATION

Mr. CAMPBELL. I wanted to ask Mr. Warner to make a comment on something I think you might appreciate, and that is the amount of loans that we have in liquidation—we can't give you a projection on the number of jobs that we say internally were established originally or maintained and then vanished because corporations went into default. I would like Mr. Warner to expand on the amount of money we have in liquidation because I think it will give you an appreciation of some of the downside of the EDA type of vehicle.

Mr. WARNER. Senator, as you know, we operate in the area of high risk lending; the fundamental premise is that in order to be an applicant for a direct loan or guarantee, an applicant must present evidence that funds are not otherwise available. Accordingly, even with that major adverse business cycle relationship, we have relatively high default rates. When you have an adverse condition in the economy as we are currently experiencing and have had for some 18 months, that rate becomes alarmingly high.

As you know, our portfolio was audited by independent auditors last fall and in their finding the default rates on loan and loan guarantees were in excess of 40 percent. We, of course, have worked very hard to bring the portfolio under control through what I call a triage exercise to determine what the conditions of loans are, the related conditions of the borrower. As an aggregate we have 178 out of a total 745 direct loans which were delinquent; the face value of these loans is $199,770,000. This is as of February 24. I operate a Portfolio Review Board in the agency which rates all loans; I must tell you that there will be increased liquidations. There is pure and simple evidence that we cannot operate a softman window policy without going into inordinately high rates of default as judged by standard banking principles.

EDA has often encouraged people to borrow funds when in reality they should not.

Senator BUMPERS. You ought not to do that.

Mr. WARNER. But it has happened in the past. This is why we have the results. If there is going to be a future in this area, it has to be operated under somewhat different conditions, clear guidelines, other than what I can do myself to administer a more productive loan policy. I think the policy has to be reviewed in further details from what our experience has been. This is a big portfolio.

Senator BUMPERS. Have you submitted any kind of documentation on this?

Mr. WARNER. I would be glad to.

Senator BUMPERS. The numbers, length, the whole thing you were talking about.

Mr. WARNER. Certainly.

[The information follows:]

Senator you will note that pages 445 through 466 of "Hearing before the Subcommittee on Economic Development of the Committee on Public Works and Transportation House of Representatives", (5 November 1981) carry the Alexander Grant Viability Study; an excerpted copy is attached.

This was the independent audit of EDA's portfolio which I referred to in earlier testimony. It is important for you to know at this juncture that upon our first review of the draft report of this audit and prior to their final report of November 6, 1981, EDA management proceeded immediately to institute appropriate procedures to rectify loan and guarantee policies that contributed to such high default rates and further sought within the Agency the needed professional assistance to maintain such a required portfolio evaluation process. A formal Portfolio Review Board was established specifically for this task. The Review Board, with an associated analytical and legal staff has completed the triage phase which divided the portfolio into three principal segments: retention, workouts and liquidation. The Review Board, which meets regularly, views the rating of the portfolio as a continuing process.

In the course of its disposition process, the Board has taken exceptional care in the determination of liquidation cases. In so doing, the board has recognized the intent of Congress to assist borrowers to the most reasonable extent feasible and advisable, while maintaining prudent debt management policies. Consistent with this policy, an expanded Loan Servicing Division has been implemented which will strengthen the specialized analytical capabilities necessary to properly manage the rapidly expanding workout case load.

In keeping with a newly established debt management policy, revised procedures and guidelines for FY 1982 investments have been issued to headquarters and regional offices managers. Although we shall continue to work with higher than commercial standards of risk, we shall be firm in our resolve that such unreasonable default and delinquency rates not be experienced again.

In the course of our efforts to strengthen the EDA portfolio and implement appropriate loan and guaranty policies we shall be making a very measurable contribution to the larger issue of Federal Debt Management with a view toward a more proper and well founded posture for the Federal Government's role in business assistance programs. At the completion of our rating report I shall be glad to provide our findings to you for review.

FINAL REPORT

EDA PORTFOLIO FINANCIAL VIABILITY STUDY

Prepared for:

RESEARCH AND EVALUATION DIVISION
ECONOMIC DEVELOPMENT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

Project Number 99-10-00002-01

David H. Geddes, Chief
Research and Evaluation Division
Economic Development Administration
U. S. Department of Commerce
Room 7859
14th and Constitution Avenue, N. W.
Washington, D. C. 20230

Reference: Grant Number 99-10-00002-01

Dear Mr. Geddes:

As agreed in the work statement of the referenced grant, we have performed the procedures described below with respect to the financial viability of the ARA/EDA loan and loan guarantee portfolio.

Our review was made solely to assist you in evaluating the value and quality of the overall portfolio as of June 30, 1981 and our report is not to be used for any other purpose. The procedures we performed are described in Section II of this report and are summarized as follows:

- We examined the existing EDA data base for loans and loan guarantees.
- We developed a set of data collection procedures to verify and/or augment the data base.
- We developed a plan to determine the overall numerical value and quality of each loan/guarantee.
- We performed the data collection effort and arranged to enter the data developed into an EDA-operated computer system.
- We analyzed the data developed and prepared a series of draft reports and held a series of briefings on our findings for appropriate Department and EDA officials.
- With the assistance of EDA personnel we refined the data base.
- We analyzed the latest version of the data base, modified it further as necessary, and had output prepared from the data base which was used to prepare the exhibits in this report.
- We prepared this report.

During the study, a new loan and loan guarantee data base was developed on EDA's computer facility. We believe proper and timely updating of the data base (along with some refinement) will provide EDA a new and improved source of loan and loan guarantee information. The figures in this report are based on the latest data base figures, the last changes to which were made November 3, 1981.

Our report is in five sections:

I. Exhibits Showing Estimated Value on Quality of EDA's Loan and Loan Guarantee Portfolio

II. Study Scope and Methodology

III. Key Findings

IV. Observations

V. Recommendations

Based solely on the procedures described above, and as shown in greater detail in Section I, we estimate the overall value of the EDA loan and loan guarantee portfolio to be approximately $1,106,823,000 (up 4% from our final draft report of September 21, 1981). This excludes balances carried as "other assets" including those which have some of the characteristics of loan balances; e.g., notes taken on the sale of collateral and prior liens purchased. Based on the quality grading for each loan, approximately 41% reflects distress, ranging from delinquency to a liquidation in process.

Because the procedures we performed do not constitute an examination made in accordance with generally accepted auditing standards, we do not express an opinion on the loan and loan guarantee portfolio as of June 30, 1981. Had we performed additional procedures or had we made an examination of the financial records in accordance with generally accepted auditing standards, matters might have come to our attention that would have been reported to you. This report relates only to the accounts and items specified above and does not extend to any EDA financial statements taken as a whole.

We have enjoyed continuing our relationship with EDA on this study and look forward to assisting further when we are asked to do so.

Very truly yours,

Alexander Grant & Company

Washington, D. C.
November 6, 1981

EXHIBIT I

CURRENT OVERALL PORTFOLIO SITUATION
(June 30, 1981)

	Value		Projects	
	$ 000	%	#	%
Loans Made (1)	517,479	47	755	79
Guarantees Outstanding (2)	481,608	43	160	17
Guaranteed Loans Acquired (3)	107,736	10	38	4
TOTAL 589,344	1,106,823	100	953	100

(1) "Loans Made" are the principal balances outstanding at 6/30/81 on loans made by the government. These include loans made by ARA (EDA's predecessor agency) and loans made by EDA pursuant to the authority of its own enabling legislation, as well as the authority of the Trade Act.

(2) "Guarantees Outstanding" reflect EDA's contingent liability (usually 90% of the outstanding amount) at 6/30/81 on the guarantees it has issued to banks and other private lenders.

(3) "Guaranteed Loans Acquired" are those loans made by banks and other private lenders which were purchased by EDA pursuant to its guarantee commitment. The balances at 6/30/81 are those honored guarantees which have not yet been liquidated or otherwise disposed of, and are still carried as balances outstanding.

EXHIBIT I

ADDITIONAL "ASSETS" ON EDA BOOKS
(June 30, 1981)

	$ 000	%
Recoverable CPC (1)	6,753	28
Prior Liens Purchased (2)	4,953	21
Due from Sale of Collateral (3)	11,825	50
Capitalized Interest (4)	337	1
TOTAL	23,868	100

(1) "Recoverable CPC" is the amount legally recoverable from borrowers, which EDA has advanced to protect the value of its collateral; i.e., care and protection of collateral. It includes disbursements for such services as security guards, utilities, repairs, and maintenance. As a practical matter little, if any, of the amounts carried at 6/30/81 will ever be collected. They are recorded so as to not lose track of them should there be an opportunity to collect. They are typically written off when a loan has been liquidated.

(2) "Prior Liens Purchased" are loans originally made to EDA borrowers by banks or other private lenders. They have been purchased by EDA because their position with respect to collateral is superior to EDA's, and a judgement has been made that the value of the collateral exceeds the prior lien. EDA purchases such a lien so as control a work-out or liquidation, and maximize its recovery. In terms of their value they are basically collectible as shown.

(3) "Due from Sale of Collateral" represents notes (as opposed to cash) accepted in payment for liquidated collateral. Their collectibility is questionable, but this analysis has not dealt with assessing them.

(4) "Capitalized Interest" represents notes which have been accepted for past due interest on certain loans. In effect the past due interest has been converted to an additional loan. The collectibility of such notes is highly questionable in view of the circumstances which gave rise to their creation.

EXHIBIT III

LOANS MADE
BREAKDOWN BY PROGRAM
(June 30, 1981)

	Value		Projects	
	$ 000	%	#	%
ARA	18,375	4	80	11
EDA	364,792	70	429	57
Trade	134,312	26	246	32
TOTAL	517,479	100	755	100

EXHIBIT IV

GUARANTEES OUTSTANDING BY PROGRAM
(June 30, 1981)

	Value		Projects	
	$ 000	%	#	%
EDA	223,670	46	106	66
Trade	50,825	11	51	32
Steel	207,113	43	3	2
TOTAL	481,608	100	160	100

GUARANTEED LOANS ACQUIRED BY PROGRAM
(as of 6/30/81)

	Value		Projects	
	$000	%	#	%
EDA	32,426	30	20	53
Trade	23,129	21	16	42
Steel	52,181	49	2	5
TOTAL	107,736	100	38	100

EXHIBIT VI

PRINCIPAL LOAN BALANCES BY EDA REGION
(June 30, 1981)

	ARA				EDA				Trade				Total			
	Value		Projects		Value		Projects		Value		Projects		Value		Projects	
	$000	%	#	%	$000	%	#	%	$000	%	#	%	$000	%	#	%
Atlantic	6,099	33	25	31	162,480	45	171	40	100,296	74	169	69	268,875	52	365	48
Southeastern	2,468	13	16	20	70,339	19	84	20	9,828	7	20	8	82,635	16	120	16
Rocky Mountain	644	4	7	9	14,183	4	28	6	5,014	4	7	3	19,841	4	42	6
Midwestern	3,116	17	17	21	40,271	11	49	11	6,317	5	14	5	49,704	10	80	11
Western	599	3	7	9	55,764	15	59	14	7,799	6	26	11	64,162	12	92	12
Southwestern	5,449	30	8	10	21,755	6	38	9	5,058	4	10	4	32,262	6	56	7
TOTAL	18,375	100	80	100	364,792	100	429	100	134,312	100	246	100	517,479	100	755	100
Percent by Program of Total		4				70				26				100		

EXHIBIT VII

GUARANTEES OUTSTANDING BY EDA REGION
(June 30, 1981)

	EDA				Trade				Steel				Total			
	Value		Projects		Value		Projects		Value		Projects		Value		Projects	
	$000	%	#	%	$000	%	#	%	$000	%	#	%	$000	%	#	%
Atlantic	150,134	71	46	44	24,027	47	21	41	189,900	92	2	67	372,061	77	69	43
Southeastern	20,625	9	14	13	4,549	9	6	12	17,213	8	1	33	42,387	9	21	13
Rocky Mountain	14,113	6	10	9	335	1	1	2					14,448	3	11	7
Midwestern	16,629	7	16	15	5,066	10	8	16					21,695	5	24	15
Western	4,052	2	4	4	1,123	2	2	4					5,175	1	6	4
Southwestern	10,117	5	16	15	15,725	31	13	25					25,842	5	29	18
TOTAL	223,670	100	106	100	50,825	100	51	100	207,113	100	3	100	481,608	100	160	100
Percent by Program of Total		46				11				43				100		

EXHIBIT VIII

GUARANTEED LOANS ACQUIRED BY REGION
(June 30, 1981)

	EDA				Trade				Steel				Total			
	Value		Projects		Value		Projects		Value		Projects		Value		Projects	
	$000	%	#	%	$000	%	#	%	$000	%	#	%	$000	%	#	%
Atlantic	13,694	42	9	45	14,180	61	12	75					27,874	26	21	55
Southeastern	3,774	12	3	15									3,774	4	3	8
Rocky Mountain	356	1	1	5	2,374	10	1	6					2,730	3	2	5
Midwestern	6,736	21	3	15	2,882	13	1	6	52,181	100	2	100	61,799	57	6	16
Western	3,661	11	3	15									3,661	3	3	8
Southwestern	4,205	13	1	5	3,693	16	2	13					7,898	7	3	8
TOTAL	32,426	100	20	100	23,129	100	16	100	52,181	100	2	100	107,736	100	38	100
Percent by Program of Total		30				21				49				100		

EXHIBIT IX

QUALITY CATEGORIES

CATEGORY	PAYMENT HISTORY
A	Current, no delinquencies for last 3 years or longer
B	Current, no delinquencies in last year (for loans outstanding more than 1 year) or current, no delinquencies since disbursement (for loans outstanding less than 1 year)
C	Current, but with delinquency within last year
D	Delinquent less than 60 days, paying with regularity for last year
E	Delinquent less than 60 days, last 2 payments missed or sporadic payments during last year or delinquent more than 60 days, paying with regularity for last year
F	Delinquent more than 60 days, irregular or no payments during last year
L	In "Liquidation"
S	In "Special Servicing"; handling for loans in some kind of serious trouble; done in Washington not Regional Offices

EXHIBIT X

QUALITY OF OVERALL EXISTING PORTFOLIO
(June 30, 1981)

Risk Category	Loans Made				Guarantees Outstanding				Guarantees Acquired				Total			
	Value		Projects		Value		Projects		Value		Projects		Value		Projects	
	$000	%	#	%	$000	%	#	%	$000	%	#	%	$000	%	#	%
A	206,244	40	285	38	87,847	18	68	42					294,091	27	353	37
B	65,516	13	103	13	260,008	54	38	24					325,524	29	141	15
C	37,018	7	54	7	730		2	1					37,748	3	56	6
D	18,348	3	26	4	1,548		3	2					19,896	2	29	3
E	6,353	1	19	3	5,404	1	5	3					11,757	1	24	2
F	56,181	11	100	13	7,553	2	9	6					63,734	6	109	11
G	64,772	13	60	8	105,131	22	23	14					169,903	15	83	9
L	63,047	12	108	14	13,387	3	12	8	107,736	100	38	100	184,170	17	158	17
TOTAL	517,479	100	755	100	481,608	100	160	100	107,736	100	38	100	1,106,823	100	953	100

133,003 / 481,608 = 27.62%

11,757
63,734
$ 75,491

EXHIBIT XI

QUALITY OF ENTIRE PORTFOLIO BY PROGRAM
(June 30, 1981)

Risk Category	ARA				EDA				Trade				Steel				Total			
	Value		Projects		Value		Projects		Value		Projects		Value		Projects		Value		Projects	
	$000	%	#	%	$000	%	#	%	$000	%	#	%	$000	%	#	%	$000	%	#	%
A	13,301	73	50	63	245,405	39	245	44	35,305	17	58	19					294,091	27	353	37
B	1,142	6	7	9	79,942	13	74	14	37,227	18	57	19	207,113	80	3	60	325,524	29	141	15
C	421	2	5	6	30,093	5	34	6	7,235	3	17	5					37,749	3	56	6
D	821	4	4	5	11,368	2	11	2	7,707	4	14	4					19,896	2	29	3
E					5,452	1	11	2	6,304	3	13	4					11,756	1	24	2
F	270	2	6	7	36,533	6	52	9	26,923	13	51	16					63,734	6	109	11
G	59	1	1	1	141,030	23	55	10	28,814	14	27	9					169,903	15	83	9
	2,273	12	7	9	71,965	11	73	13	50,651	24	76	24	52,181	20	2	40	184,178	17	158	17
TOTAL	18,375	100	80	100	620,888	100	555	100	208,366	100	313	100	259,294	100	5	100	1,106,823	100	953	100

EXHIBIT XII

QUALITY OF LOANS BY PROGRAM
(June 30, 1981)

Risk Category	ARA				EDA				Trade				Total			
	Value		Projects		Value		Projects		Value		Projects		Value		Projects	
	$000	%	#	%	$000	%	#	%	$000	%	#	%	$000	%	#	%
A	13,381	73	50	63	170,854	47	196	46	22,810	17	39	16	206,245	40	285	38
B	1,142	6	7	9	44,554	12	54	13	19,819	15	42	17	65,515	12	103	14
C	421	2	5	6	29,363	8	32	7	7,235	5	17	7	37,019	7	54	7
D	821	4	4	5	9,820	3	8	2	7,706	6	14	6	18,347	4	26	3
E					1,444		7	2	4,909	4	12	5	6,353	1	19	2
F	278	2	6	7	34,663	10	48	11	21,240	16	46	18	56,181	11	100	14
S	59	1	1	1	41,470	11	36	8	23,243	17	23	9	64,772	13	60	8
L	2,273	12	7	9	33,424	9	48	11	27,350	20	53	22	63,047	12	108	14
TOTAL	18,375	100	80	100	364,792	100	429	100	134,312	100	246	100	517,479	100	755	100

EXHIBIT XIII

QUALITY OF LOAN GUARANTEES OUTSTANDING BY PROGRAM
(June 30, 1981)

Risk Category	EDA				Steel				Trade				Total			
	Value		Projects		Value		Projects		Value		Projects		Value		Projects	
	$000	%	#	%	$000	%	#	%	$000	%	#	%	$000	%	#	%
A	75,352	34	49	46					12,495	25	19	37	87,847	18	68	42
B	35,387	16	20	18	207,113	100	3	100	17,509	34	15	29	260,009	54	38	24
C	730		2	2									730		2	1
D	1,548	1	3	3									1,548		3	2
E	4,008	2	4	4					1,395	3	1	2	5,403	1	5	3
F	1,870	1	4	4					5,683	11	5	10	7,553	2	9	6
S	99,560	44	19	18					5,571	11	4	8	105,131	22	23	14
L	5,215	2	5	5					8,172	16	7	14	13,387	3	12	8
TOTAL	223,670	100	106	100	207,113	100	3	100	50,825	100	51	100	481,608	100	160	100

II. STUDY SCOPE AND METHODOLOGY

This section expands on the study procedures listed in the covering letter. The study's scope included loans and loan guarantees administered by EDA. Such loans and guarantees were made pursuant to the authorities of Title II of the Public Works and Economic Development Act (PWEDA), the Area Redevelopment Act (ARA), and the Trade Act of 1974. The primary objectives of the study were to estimate the June 30, 1981 value and quality (primarily as represented by repayment history) of the portfolio. The study methodology consequently focused on three areas:

- What are the outstanding loans and loan guarantees?
- What is the current value of each?
- What is the quality of each; i.e., the likelihood it will be paid in full on a timely basis?

At the outset of the study, EDA provided listings which it believed included all loans and loan guarantees. Different approaches were used to verify loan and loan guarantee balances and quality.

EDA's loan accounting system has a reputation for accuracy, in large measure due to years of borrower-initiated audit verifications. This system was used as the key source of loan balance and repayment history. -A 5% sample (40 projects) of loan balances was verified with borrowers to test the system's credibility. Only insignificant differences between EDA and borrower records were found.

EDA records of loan guarantees were less complete and accurate. After using a number of approaches to develop a complete list of existing loan guarantees, each lending institution holding what was believed to be an EDA guarantee was called and/or written to verify loan balances and repayment history.

Loan and guarantee quality was determined on the basis of repayment history or EDA jurisdictional responsibility in the case of special servicing and liquidation loans. A set of quality categories was established and assigned to each loan or guarantee depending on repayment history or EDA jurisdiction.

The data developed on balances and quality were entered into a data base separate from other EDA information systems and used to produce the data included in this report.

III. KEY FINDINGS

The exhibit numbers used here refer to specific pages in Section I.

1. EDA's PORTFOLIO INCLUDES SLIGHTLY MORE THAN ONE BILLION, ONE HUNDRED MILLION DOLLARS IN LOANS AND GUARANTEES

As shown in Exhibit I, as of June 30, 1981 EDA's portfolio had an estimated value of $1,106,823,000 of which $481,608,000 reflects EDA's contingent liability for guarantees it has issued to other lenders.

Of the $517,479,000 in loans, 70% ($364,792,000) are EDA, while 4% are ARA, and 26% are for the Trade program (Exhibit III). Forty-six percent of the guarantee value is for the EDA program and 43% for the Steel program (Exhibit IV). About 49% of the total of $107,736,000 in guaranteed loans acquired is for the Steel program (Exhibit V).

2. REPAYMENT ON ABOUT 41% OF THE OVERALL PORTFOLIO IS DELINQUENT OR HAS STOPPED

Eight categories of loan quality were established (Exhibit IX). The first three (A, B, and C) are considered current; the others indicate loans or guarantees with some degree of repayment difficulty. Forty-one percent of the portfolio's value, including 40% of the loans, 28% of the guarantees, and all of the guarantees acquired are in the lower five categories (Exhibit X).

3. A MINIMUM OF $30 MILLION IN GUARANTEES PROBABLY WILL BE HONORED BY EDA IN FY 1982 UNLESS ACTION IS TAKEN TO AVERT DEMAND

About $133 million in guarantees outstanding are categorized as "D" or lower (Exhibit X); $119 million of these are now in special servicing or liquidation. Based on recent experience, we estimate that at least 25% of these guarantees will require honoring in 1982. Should the $69 million Seatrain guarantee be honored in 1982, the total guarantees honored could exceed $100 million.

4. CHARGE-OFFS IN FY 1982 MAY RANGE FROM $80 TO $200 MILLION

Over an extended period of time, charge-offs are a function of the amount of loans and guarantees which are not repaid. In any one year, however, charge-offs are a result of:

- EDA's aggressiveness in terminating slow or "no-pays" and beginning the liquidation process
- The number of liquidations completed
- Physical processing of the accounting entries to record such activity

Forty-one percent (over $449 million) (Exhibit X) of EDA's portfolio is currently in categories D and lower. Depending on how aggressive EDA is in terminating and liquidating loans and honored guarantees, the amount of charge-offs could range from 20 to 50% of the problem loans, amounting to a total charge-off of $80 million to over $200 million (a detailed study of loans currently in special servicing or liquidation shows that about $102 million should be written off in 1982).

It should be noted that charge-offs have no budgetary implications. Consequently, neither obligation nor outlay authority will be required for loan charge-offs.

5. COST OF CARE AND PROTECTION OF COLLATERAL (CPC) DURING 1982 MOST LIKELY WILL BE $2 TO $5 MILLION

On the basis of recent experience and current economic conditions, we believe it is possible that about 30 to 40 projects (slightly more than in recent years) will become distressed in 1982, resulting in an estimated CPC cost of $2 to $3 million. Should Wisconsin Steel continue to incur CPC costs during 1982, total CPC could reach $5 million.

6. FY 1982 LOAN PROGRAM ADMINISTRATIVE COSTS ARE EXPECTED TO BE APPROXIMATELY $3.5 MILLION

With its planned staffing configuration, EDA expects to have 64 people devoted to administering the loan and loan guarantee program in FY 1982. Twenty-five (including six secretarial) will be in Washington and 39 (including six secretarial) will be in the regions.

The current version of the EDA's FY 1982 budget is based on an average per-person cost of $55,000 of which $23,000 is direct loan program associated overhead (no agency level support costs, e.g., legal, are included).

Sixty-four people at an average cost of $55,000 will result in total administrative costs for the loan program of about $3,520,000 for FY 1982.

7. IT IS PROBABLE THAT THE GENERAL CONDITION OF THE PORTFOLIO WILL WORSEN BEFORE IT IMPROVES

Loans in distress (particularly significant distress) usually do not improve, and some loans not now exhibiting distress can be expected to experience difficulty in the future, so it is conceivable that the number of problem loans will increase in the near future. Also, the general condition of the portfolio will probably not average upwards as a result of new projects because of the anticipated low level of new project activity. It is reasonable to project that between 50 and 100 loans not now in a problem category will enter such a category during 1982. And loans becoming seriously troubled could possibly range from 40 to 60.

IV. OBSERVATIONS

In addition to the key findings in the previous section, we note the following about the EDA loan portfolio situation:

- The additional assets (Exhibit II) are soft. Perhaps only 25% to 30% of the $23.9 million is realistically collectible.
- The Steel program has introduced a number of biases into the data:
  - Each of the Steel projects is huge by EDA loan standard.
  - At this time, about 80% of the Steel guarantees are classified as "B": current. The other 20% is in liquidation (Exhibit XI).
  - Looking at the portfolio without the Steel loan guarantees increases the percent of problem loans to 47%.
  - Should one or more Steel loans become problems, the proportion of problem loans overall could exceed 50%.
- On balance, Trade loans are in the worst shape--28% of Trade loans are in liquidation (Exhibit XI).
- Generally, the ARA loans still on the books are seasoned and in the main should be routinely paid out over the next five years (Exhibit XI).
- Atlantic Region loan balances are 52% of the total loans; 74% of Trade loans are in this region (Exhibit VI).
- Seventy-seven percent of guarantees are in the Atlantic Region, including 71% of EDA and 92% of Steel loan guarantees (Exhibit VII).
- Because of Wisconsin Steel, 57% of guaranteed loans acquired are in the Midwestern Region (Exhibit VIII).

V. RECOMMENDATIONS

The results of this study point to a number of actions which should be taken by EDA:

- Continue to refine the new data base. It is not a total information system on loans and guarantees at this point

and most likely is not absolutely complete. It was intended initially for this study, but can have future usefulness.

- Begin a quick turn-around analysis and implementation of a portfolio information system. This does not need to be a brand new system. It can combine the current loan accounting system for most loan data and the new data base for guarantee data and status codes. The basic purpose is to get good data continuously to EDA managers and technicians.

- Other features to consider in the new reporting system include:

  - Project Officer data
  - Collateral status
  - Accrued interest
  - Other assets
  - An improved way to handle multiple loans to one company

- Proceed with an analysis of the condition of each loan or guarantee, especially the large ones and begin pushing for payment on those which are delinquent. Atlantic Region and Trade loans should receive particular attention.

- Be realistic about repayment possibilities and terminate and/or liquidate those which are not going to be repaid.

ADDITIONAL COMMITTEE QUESTIONS

Senator BUMPERS. We have some additional questions that we will submit to your for your response.

Mr. WARNER. We will be glad to respond to them.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

PLANNING GRANTS

In regard to Section 302 Planning Funds, the Congress provided $25.5 million in the Continuing Resolution, and is likely to continue assistance at this level throughout the remainder of the year. Yet, before State and city planning programs can submit applications, notice must be provided through the Federal Register. Also, I understand that lay-off notices have already been sent out by some to planning offices, effective March 31.

Concerning Section 302, FY 1982 funds which have been appropriated and released by OMB, has notice been provided through the Federal Register for funding applications by the State and city planning programs?

Cannot any official assurances be made to State and city agencies to avoid lay-offs at the end of March 1982 or at any time through the end of FY 1982?

Out of the $25.5 million appropriated by Congress for the overall planning program, $7.5 million is dedicated to the 302(a) State and Urban program. Of this amount, OMB has apportioned one-half of these funds to the Agency through March 31, 1982.

The notice of fund availability was published in the Federal Register on March 16, 1982. Processing of the 54 State and 92 urban planning continuation amendments is well underway, and we are making every effort to process projects up to the apportioned level as soon as practicable, with special emphasis being given to continuation grant amendments. We anticipate that these planning grant amendments will be processed and awarded by the end of April 1982.

We are fully aware of the problems planning grantees are experiencing as a result of the funding gap since December 31, 1981, and we are anxious to remedy that problem. All existing planning grant recipients have been contacted and informed of our plans for project processing and advised that we plan to award our grant assistance retroactively to January 1, 1982.

Last year, there was much concern expressed by this Committee as well as our colleagues in the House that qualified pipeline projects be funded. Several States and local communities have contacted this Committee complaining that their projects are ready to go, yet this money is not being released. Where does EDA stand with funding which has been appropriated for fiscal year 1982, apportioned by OMB and released to EDA for obligations?

To date, relatively few projects have been approved and, therefore, only a small portion of the appropriated/apportioned funds have been reserved/obligated.

On February 12, 1982, we notified our Regional Offices to resume project processing activities on the Development Grants program (i.e. Public Works and Revolving Loan Funds). We estimate that we should reach the following approval benchmarks (figures are cumulative) on Development Grants:

April 15	30 projects	$25 million
May 30	65 projects	48 million
June 30	80 projects	58 million
July 30	120 projects	85 million
August 30	170 projects	110 million
September 30	205 projects	130 million

On December 29, 1981, we advised all existing planning grantees of the policies EDA had developed to assure that effective use would be made of the funds anticipated to be apportioned for the FY 1982 Planning program. On March 4, 1982, we issued final instructions to the Regional Offices concerning the processing and awarding of the planning grant and university center continuation amendments. The notice concerning fund availablity, eligibility, selection criteria and application procedures was published in the Federal Register on March 16, 1982. Processing is well underway, and we estimate that approximately 30% of the continuation amendments should be approved by mid-April and the balance by the end of April 1982.

The policies and procedures that have been developed for the Title IX-Economic Adjustment Assistance (SSED) program are in final clearance before being submitted to the Federal Register for publication. We now anticipate that the notice of fund availability and project selection criteria will be published during the week of March 29, 1982. Our plan is to make $24 million of the $33 million appropriated (to date, only $16.5 million has been apportioned through March 31) available on the competitive basis to the areas of the Nation with the highest levels of economic distress. The remaining $9 million would be available to address other unanticipated economic dislocations. Given the time frames associated with pre-approval evaluations and application processing procedures, we estimate that most of the approvals will occur late in the third quarter and/or during the fourth quarter of the fiscal year.

We are finalizing our policies and procedures associated with the non-University Center aspects of the Technical Assistance program. We plan to use these funds primarily to support export development and to fund one-time projects that will enable States and sub-State jurisdictions to identify and/or develop the means to continue economic development activities without the need for continued

funding by the Federal government (e.g. documentation of effective public/private economic development efforts that support and sustain an area's economic development program. Solicitations for applications to carry out such projects will, for the most part, be announced in the Federal Register, Commerce Business Daily, and other appropriate publications.

ECONOMIC DEVELOPMENT REVOLVING FUND

Your budget request proposes to use the Revolving Fund to cover defaults, care and protection of collateral, and other expenses related to EDA/Trade loan and guarantee portfolio.

What is the current balance of the Revolving Fund?

We estimate the current balance in the Revolving Fund to be $145 million. The unobligated balance at the beginning of FY 1982 was $166 million; we expect the balance at the end of FY 1982 to be $113 million.

How much money will be needed during fiscal year 1983 to cover defaulted EDA/Trade Guaranteed Loans, care and protection of collateral, and other related expenses?

We expect defaults and CPC expenses for FY 1983 to total $65 million; we anticipate an unobligated balance at the end of FY 1983 of $121 million.

How does the estimated amount of defaults for fiscal year 1983 compare with prior year defaults?

For the period FY 1975 through FY 1981, average defaults were $22 million per year; the peak year was FY 1981 with defaults of $32 million. The budget estimate for FY 1982 is $98 million. We have obligated more than $50 million for defaults and CPC expense thus far in FY 1982.

How have you been improving management of the outstanding loan portfolio since your arrival at EDA?

The Agency has placed the highest priority on debt collection and debt management. It has increased its debt collection targets for FY 1982, 1983 and 1984. Each outstanding loan in the portfolio has been reviewed to determine its appropriate risk category, and every effort is being made to maintain updates on the assigned risk categories. Delinquent loans which are in the highest risk categories have been and are being transferred to headquarters for intensive servicing. A Management Review Board consisting of high management officials has been established for the purpose of evaluating delinquent loans being transferred to headquarters.

Debt collection and loan servicing efforts in the Regional Offices are being supported by priority allocations of administrative resources within the Regions. All banks with which EDA has guaranteed loans have been contacted and reminded of their obligation to notify the Agency promptly in the event of defaults. We have taken steps to strengthen the linkage between delinquent accounts and the disposition of requests for modifications of the loan terms for those accounts. As part of the implementation of a management information system, EDA has developed a loan delinquency report which will provide prompt notification to the loan servicing officer of a delinquency within his portfolio. Whenever possible, the Agency has sought to strengthen projects within the portfolio through the loan modification process. We are currently preparing new debt collection procedures designed to accomplish the following: a) accelerate notification to the borrower that EDA is aware of a delinquency and will take steps to protect the government's interest; b) establish a debt collection discipline within the Agency; c) establish uniform procedures throughout the Regional Offices; and, d) establish accountability for debt collection efforts.

It is our intention to assist those borrowers who are experiencing difficulties with the hope of retaining the economic development benefit attributable to the project. However, in those instances where a determination has been made that the project is no longer financially viable, we will take the necessary steps to protect the government's interest and maximize recovery.

The Wisconsin Steel Company went belly-up two years ago leaving EDA as the owner of the facility. What assets have you been able to sell? What do you estimate the total loss will be to the U. S. Treasury?

So far, slightly more than three million dollars has been recouped from sales of property not considered essential to the whole facility. Properties sold have included machinery and equipment of one finishing mill, an ore boat, tools and shop equipment, and scrap. A sale of a portion of the real estate is scheduled for March 23. In the meantime efforts have continued to sell the property or a major portion of it to a user who would expect to resume some form of operation at the site. This would not only restore employment in the area but would bring us the maximum return. We expect to hear one way or the other in the next few weeks from a prospective purchaser on such a proposal, and we have recently begun a new, international solicitation of other proposals.

We do not yet know how much the final loss will be, although we do expect a substantial loss. Among the elements still unknown are the amount of the final recovery on sale of the property, the future costs of preservation, the net amount which will be recoverable from the undisbursed "Program Fund" now held under court

jurisdiction, the amounts, if any, eventually available for general creditors in the bankrupt estate, and the amounts recoverable from International Harvester under their $27 million indemnity to EDA. Costs so far include the $52 million paid in satisfaction of the EDA guarantees, approximately $10 million paid from EDA funds for collateral protection, local taxes, etc., and $5.75 million (all of which will be recovered from the Program Fund) paid in settlement of prior liens.

Questions Submitted by Senator Dale Bumpers

FURLOUGH

By letter of March 3, 1982, EDA indicated that the furlough of the Economic Development Representatives would be implemented April 1, 1982. Have you rescinded the notice to the EDRs which would have placed them on six months furlough, in view of the Comptroller General's ruling, also of March 3rd, that the action is illegal?

Yes. The EDR's have been advised that they will not be placed on a six-month furlough. EDR's will be treated the same as all other EDA employees in any furlough action.

On October 22, 1981 Secretary Baldrige wrote that the Department would "retain the 47 Economic Development Representatives as mandated by the Continuing Resolution." The Secretary certainly recognized the mandatory nature of the languages; why then did EDA propose to furlough the EDRs?

The Secretary's statement asserted our recognition that for the period of the First Continuing Resolution that we could not terminate the EDRs as originally planned and informed the Congress that we would not RIF the EDRs. His statements cannot reasonably be construed to mean that we would never take any action which might result in the EDR's being "off-duty" at some time in the future. Even in the furlough action as originally proposed (i.e. the six-month furlough of EDRs), we felt that we were in compliance with the language of the Continuing Resolution and that the furlough was reasonable in light of our funding emergency. The Comptroller General's ruling overruled that judgment; we are complying with that ruling.

How many EDRs are now on board?

As of March 12, 1982, there were 38 EDRs on board.

Regional Office	Authorized	On Board
Philadelphia	11	9
Atlanta	8	7
Chicago	6	4
Denver	4	4
Austin	7	5
Seattle	11	9
Total	47	38

Which of the 47 EDR positions that were in place on June 1, 1981 are not now filled?

The following is a list of the locations of the 47 EDR offices that were in place on June 1, 1981. Those that were vacant as of March 12, 1982, are so noted.

Filled EDR Office	Vacant EDR Position
Philadelphia Regional Office:	
Hartford, CT	
Augusta, ME	
Boston, MA	
Trenton, NJ	
Philadelphia, PA	
	Concord, NH
Hato Rey, PR	
Annapolis, MD	
	Richmond, VA
Beckley, WV	
Clarksburg, WV	
Atlanta Regional Office:	
Montgomery, AL	
Atlanta, GA	
Lexington, KY	
Hopkinsville, KY	
Jackson, MS	
Columbia, SC	
Raleigh, NC	
	Nashville, TN
Chicago Regional Office:	
Springfield, IL	
	Indianapolis, IN
Lansing, MI	
Duluth, MN	
Athens, OH	
	Eau Claire, WI

Denver Regional Office:

St. Louis, MO
Pierre, SD
Salt Lake City, UT
Bismarck, ND

Austin Regional Office:

Little Rock, AK
Baton Rouge, LA
Santa Fe. NM
Austin, TX
Oklahoma City, OK
Laredo, TX
Lubbock, TX

Seattle Regional Office:

Anchorage, AL
Phoenix, AZ (2 EDRs)
Fresno, CA
Oakland, CA
Sacremento, CA
Los Angeles, CA
Seattle, WA (2 EDRs)
Boise, ID
Portland, OR

What steps is EDA taking to fund the vacancies among the 47 EDRs?

In September 1981, in accordance with Congressional direction, EDA withdrew the reduction-in-force (RIF) notices that were sent to the Economic Development Representatives (EDR), and maintained the 47 EDR positions that were identified as being on-board as of June 1, 1981.

The withdrawal of the EDR RIF letters delayed the regional portion of the RIF, resulting in the Agency starting off FY 1982 with an on-board count of approximately 580 employees, instead of the planned 471.

EDA estimated that the $25 million available to the Agency in the S&E account would support 440 staff years of effort. EDA's plan was to start the Fiscal Year 1982 with an on-board of 471, and attrit (i.e. only filling those vacancies that were determined to be absolutely critical) during the year to an end-of-year (EOY) staff of 380 on-board.

Attrition has been slow. Therefore, justifications have been required for those cases where outside hiring is required (i.e. where there will be a net increase to EDA's employment rolls).

Accordingly, because of the Agency's severe funding limitations (in fact all EDA employees are scheduled to be furloughed for 12 days during FY 1982), and since the EDRs are not critical to EDA's FY 1982 authorized program efforts, there has been no attempt to fill those EDR positions that have become vacant.

Is there some thought in EDA that a general furlough in the Agency will also apply to the EDRs? Doesn't the GAO opinion rule out any furlough of EDRs as long as EDA has sufficient funds for 47 permanent positions?

EDA plans to furlough Economic Development Representatives (EDR's) on the same basis that it will furlough other employees.

The Opinion of the Comptroller General of the United States (B-206318, dated March 3, 1982) (attached) prohibited EDA from furloughing EDR's for a 6 month period. However, this opinion has been interpreted to permit a furlough of one or two days per pay period on a similar basis to that of other EDA employees. (See March 11, 1982, Memorandum from F. Henry Barclay, Associate General Counsel, United States General Accounting Office; March 10, 1982, Memorandum from Marilyn G. Wayner, Associate General Counsel for Administration, Department of Commerce, attaching a Memorandum setting forth the understanding reached at a meeting between staff of the Department of Commerce and General Accounting Office held on March 5, 1982.) (Attached)

March 11, 1982

Ms. Marilyn G. Wagner
Assistant General Counsel
for Administration
Department of Commerce

Dear Ms. Wagner:

The memorandum you sent to me has been signed by Ms. Efros and myself. Our agreement with the memorandum should not be construed as approval of the specific terms of any future furlough proposal that may be made.

Sincerely yours,

F. Henry Barclay

F. Henry Barclay
Associate General Counsel

MAR 10 1982

Mr. F. Henry Barclay
Associate General Counsel
for Personnel Law
General Accounting Office
441 G Street, N.W., Room 7721
Washington, D.C. 20548

Dear Mr. Barclay:

Thank you again for taking the time to meet with us last week to discuss Comptroller General Opinion B-206318. We appreciate your efforts to help us resolve this matter.

I have enclosed a memorandum to the file summarizing our meeting. If you agree that the memo accurately describes the conclusions reached at the meeting, could you so indicate by signing in the appropriate place on the second page?

Sincerely,

Marilyn G. Wagner
Assistant General Counsel
for Administration

MEMORANDUM FOR THE FILES

FROM: James K. White
Deputy Assistant General Counsel
for Administration

SUBJECT: Furlough of Economic Development Administration Employees/Meeting with GAO

On March 5, 1982, Marilyn Wagner, Jim Marten, and I met with F. Henry Barclay, Jr., Associate General Counsel for Personnel Law, GAO, and Rollee H. Efros, Associate General Counsel for General Government Matters Division, GAO, to discuss the Comptroller General's recent letter to Senator Hollings, Opinion No. B-206318 dated March 3, 1982, which concluded that a six month furlough of Economic Development Representatives (EDRs) would be contrary to section 110A of H.R.J. Res. 325.

Marilyn Wagner began the meeting by stating our concerns regarding the possible scope of the opinion because it appeared to go beyond consideration of the six month furlough proposal and imply that EDRs could not be furloughed for any length of time, even though most other EDA employees are being furloughed. Both Mr. Barclay and Ms. Efros stated that Opinion B-206318 was deliberately worded in such a manner as to avoid reaching such a sweeping conclusion. For example, the final paragraph of the opinion specifically limits its conclusions to the "proposed furlough" of six months. Barclay and Efros stated that neither H.R.J. Res. 325 nor Opinion No. B-206318 prevents a furlough of the EDRs as long as they are treated in a manner similar to that of other EDA employees. Ms. Efros stated that GAO's concern with the

Department's proposed six month furlough is that it would be tantamount to removal of the individuals and abolishment of the positions contrary to the language of §110(a) requiring that the EDR positions be "funded." A furlough of one or two days per pay period, for example, would not constitute removal, and therefore, would be consistent with §110(a).

As the extent to which EDRs could be treated differently from other EDA employees, short of a six month furlough, Mr. Barclay opined that while it is difficult to draw a line on that issue, the action becomes increasingly questionable as one departs from equal treatment for the EDRs. Ms. Efros went further, stating that it would be contrary to the thrust of §110(a), and the Congressional intent as indicated in the legislative history of that provision, to single out the EDRs for treatment more severe than that accorded other EDA employees.

Finally, in response to a question from Mr. Marten regarding the effect of the March 30 expiration of funding under the Continuing Resolution, Ms. Efros stated that Opinion B-206318 was based on an assumption that EDA would continue to be funded until the end of Fiscal Year 1982. Therefore, the opinion should not be read as requiring the Department of Commerce to set aside, out of its current funds available through March 30, an amount necessary to compensate the EDRs to the end of 1982.

Ms. Wagner, Mr. Marten and I all agreed with these conclusions.

Concurrence: Ms. Wagner Allegra G. Wagner

Mr. Marten James F. Marten

Mr. Barclay F. H. Barclay

Ms. Efros Julia Efros

In Reply
refer to: B-206318 March 3, 1982

The Honorable Ernest F. Hollings
United States Senate

Dear Senator Hollings:

This is in response to your concern as to whether the Department of Commerce would violate § 110A of the Act of October 1, 1981, Pub. L. No. 97-51, 95 Stat. 958, 962 (the Act), by implementing its plan to furlough all employees who hold the positions of Economic Development Representatives (EDR's) for 6 months. The Act was originally H.R.J. Res. 325 which made continuing appropriations for fiscal year 1982.

For the reasons indicated below, it is our opinion that § 110A requires that the Department of Commerce fund and maintain at least 47 EDR positions in the

various states within the approved organizational structure which was in place on June 1, 1981, that employees actually occupy these positions until September 30, 1982, and that, where possible, these positions should be filled by those employees who held them on June 1, 1981. Thus, in our opinion the Department's furlough plan would violate § 110A of the Act.

In reaching our conclusion, we have taken into consideration, inter alia, the views of the Department of Commerce as expressed, in various communications, by the Secretary, the Assistant Secretary for Economic Development, and the Deputy General Counsel which we will have occasion to comment on in the course of this letter.

The Statute

Section 110A of the Act provides:

> "Notwithstanding any other provision of this joint resolution or any other law, there shall be forty-seven permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1982, and such positions shall be maintained in the various States within the approved organizational structure in place on June 1, 1981, and where possible, with those employees who filled those positions on that date."

Thus, there are two mandatory requirements: (1) that at least 47 of the total funded EDA positions be Economic Development Representatives, and (2) that these positions in place as of June 1, 1982, be maintained, using where possible, the incumbents employed on that date.

The Current Effectiveness of § 110A

Section 102 of the Act provides generally for various expiration dates of the Act, all of which have passed. Although the Act's expiration dates have been extended twice (with various modifications not relevant here) by the Act of November 23, 1981, Pub. L. No. 97-85, 95 Stat. 1098, and by § 102 of the Act of December 15, 1981, Pub. L. No. 97-92, 95 Stat. 1183, 1193, the language of § 110A was not repeated in these two subsequent Acts. This fact, however, does not mean that § 110A is not currently in effect. On the contrary, while § 102 of the Act provided for the expiration of the Act in general, the language of § 110A specifically provides that it is to be effective "[n]otwithstanding any other provision of this joint resolution or any other law." The clear and unambiguous language of § 110A thus demonstrates that the expiration provisions of § 102 are not applicable to it, and furthermore that § 110A was intended by Congress to be in effect until the end

of fiscal year 1982 on September 30, 1982. Indeed, as will become more evident in our discussion below of the legislative history of § 110A and other subsequent Acts, Congress has not chosen to modify § 110A in any manner.

Violation of the Funding Requirement

The language of § 110A quoted above states clearly and unambiguously that out of the total number of permanent positions funded in the salaries and expense account for EDA for fiscal year 1982, 47 positions shall be designated as EDR's. As we explain further below, there has been a $25 million fiscal year 1982 appropriation for EDA salaries and expenses. A furlough, by definition (see discussion, infra), is an action which places an employee in a nonpay, nonduty status. His position, therefore, is unfunded for the duration of the furlough. This, we conclude, is a violation of the statutory requirement to fund at least 47 EDR positions.

Violation of the Maintenance Requirement

In a Memorandum from the Deputy General Counsel to the Assistant Secretary for Economic Development (February 10, 1982), Commerce does not dispute the clearly mandatory nature of § 110A, but rather what it mandates. It does not address at all the funding requirement discussed above. In order to explain Commerce's position, it will be helpful to set forth the following definitions.

Under the Civil Service Reform Act of 1978, a furlough is "the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons." 5 U.S.C. § 7511(a)(5) (Supp. III 1979). If a furlough is for more than 30 days, then reduction-in-force (RIF) procedures apply. 5 U.S.C. § 3502 (Supp. III 1979); 5 C.F.R. § 351.201(a) (1981); H.R. Rep. No. 95-969, 95th Cong. 2d Sess. 49 (1978). On the other hand, if it is for 30 days or less, the adverse action procedures apply. 5 U.S.C. §§ 7512, 7513 (Supp. III 1979); 5 C.F.R. Part 752 (1981). In Federal personnel law, a "position" means "the work, consisting of the duties and responsibilities, assigned by competent authority for performance by an employee." 5 C.F.R. § 511.101(e) (1981).

Commerce argues that while § 110A "requires EDA to maintain the EDR positions, it does not require that the positions be continuously occupied. Since a furlough, unlike a reduction-in-force, releases the employees but does not eliminate the positions, the positions will in fact be maintained in EDA." Memorandum at 2.

In our opinion, however, such an argument results in a rather strained interpretation which is contrary to the clear and unambiguous language of § 110A which requires not only that (1) the 47 EDA positions be funded out of the Salaries and Expense account of EDA for fiscal year 1982, but also that they (2) be maintained in the various States within the approved organizational structure in place on June 1, 1981, and that (3) they be maintained "where pos-

sible, with those employees who filled those positions on that date." (Emphasis added.) While it is true that a furlough, in itself, does not eliminate positions, Commerce's reading of § 110A would render the first and third clauses of § 110A inoperative or superfluous which would be contrary to the elementary rules of statutory construction. C. Sands, Statutes and Statutory Construction § 46.06 (4th rev. ed. of Sutherland Statutory Construction 1973). To direct funding of certain positions by a special statutory provision, and yet allow a furlough, thus eliminating the functions performed by the employees of those positions would seem to be a futile act which Congress certainly could not have intended. In this regard, we do not believe that the words "where possible" constitute a basis for permitting a furlough, as Commerce contends, but rather that these words, when read in their proper context, merely recognize that the employees who filled those positions may have resigned or not be currently occupying them for other reasons.

In any event, even if we assume that the language of § 110A is unclear or ambiguous, its legislative history, cited in detail below, does not support Commerce's interpretation of the maintenance requirement.

The Legislative History of § 110A

The text of § 110A (originally designated § 110) was one of a number of Senate Appropriations Committee's amendments which were inserted into H.R.J. Res. 325 (which became the Act) during its consideration on the Senate floor. 127 Cong. Rec. S10379 (daily ed. September 24, 1981). A technical amendment later changed the designation to § 110A. 127 Cong. Rec. S10890-91 (daily ed. September 30, 1981). While the Senate Appropriations Committee did not submit the usual written report due to time limitations, 127 Cong. Rec. S10373 (daily ed. September 24, 1981), the explanatory statement submitted stated that:

> "The Department of Commerce has announced a reorganization of the Economic Development Administration and reduction-in-force. The reorganization contemplates that 50 percent of the 47 Economic Development Representatives (EDR's) now located in the various States will be offered jobs in EDA's six regional offices (Philadelphia, Atlanta, Chicago, Denver, Austin, and Seattle). The Committee has inserted an amendment (section 110) that will maintain the 47 EDR's in place in the States to monitor the almost $1.1 billion in uncompleted projects that require on-site EDA supervision. In addition the Committee believes that the States ought to have the availability of these long-term economic development specialists whose expertise goes far beyond developing EDA projects. As the States grope for new ways to solve their economic development problems without the previous Federal assist-

ance, the EDR's can be a ready source of technical assistance."

127 Cong. Rec. S10374 (daily ed. September 24, 1981).

Even before § 110A was inserted, we note that there was a similar concern in the House. 127 Cong. Rec. H6291-92 (daily ed. September 16, 1981) (remarks of Messrs. Alexander and Smith).

In its subsequent consideration in the House after § 110A had been considered in conference, Mr. Conte, one of the Managers on the Part of the House, stated that:

"House conferees receded to amendment No. 16 [§ 110A], which directs the Economic Development Administration to maintain the number of economic development representatives in the various States at 47. The amendment further directs that where possible, the individuals who held those positions on June 1, 1981, should retain their jobs. The effect of the amendment is to deny a reorganization request from the EDA to eliminate these positions."

127 Cong. Rec. H6704 (daily ed. September 30, 1981).

Other Evidence of Congressional Intent Concerning § 110A

In addition to the legislative history of § 110A, we note that further indications of Congress' intent concerning the 47 EDR positions are contained in the legislative history of the fiscal year 1982 appropriations bill for the Department of Commerce, H.R. 4169, 97th Cong., 1st Sess We note that although this bill has not been enacted into law, at least as of February 18, 1982, it is relevant in light of § 101(h) of the Act of December 15, 1981, Pub. L. No. 97-92, 95 Stat. 1183, 1190, the effect of which is to fund the salaries and expense account of the EDA for fiscal year 1982 at $25 million.

The House Report on H.R. 4169 states that:

"The bill includes sufficient funds in the 'Salaries and Expenses' account to maintain EDA positions at the same level that was authorized at the end of fiscal year 1981. It is the Committee's intent that the EDA personnel structure be maintained at levels consistent with effective administration of the program for which funds are recommended in the accompanying bill.

"In addition, the Committee intends that the Economic Development Representatives structure of the Economic Development Administration be kept in place and operating in fiscal year 1982."

H.R. Rep. No. 97-180, 97th Cong. 1st Sess. 10-11 (July 1 1981).

The later Senate Report on this bill observes that:

> "The Committee recognizes that the reduced program levels and the amount recommended for salaries and expenses require a reduction in staffing below the 'level that was authorized at the end of fiscal year 1981' and does not agree with the House provision that these levels be maintained for fiscal year 1982. However, the Committee concurs with the House and strongly disapproves of the decision by the Department of Commerce to eliminate the economic development representatives structure. The Committee recommends that the economic development representatives structure of the Economic Development Administration be kept in place and operating in fiscal year 1982 at the same level of 47 positions which was in place in June 1981 and reaffirmed in the Continuing Appropriations for 1982, H.J. Res. 325 (Public Law 97-51)."

S. Rep. No. 97-265, 97th Cong. 1st Sess. 10 (October 30, 1981).

It is thus clear that both the House and Senate Committees on Appropriations agree on the necessity of maintaining 47 EDR's.

We also note the Secretary of Commerce has previously stated that "we have held discussions with you and your staff and will retain the 47 Economic Development Representatives as mandated by the Continuing Resolution." Letter from the Honorable Malcolm Baldrige to the Honorable Neal Smith (October 22, 1981). See also Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations for 1982: Hearings Before a Subcomm. of the House Comm. on Appropriations, 97th Cong., 1st Sess., Part 10 at 19, 61-64 (statement of Joseph R. Wright, Deputy Secretary of Commerce); Part 11 at 630 (October 28, 1981).

Commerce also contends that there is a $1.6 million deficit in the salaries and expense account of EDA for fiscal year 1982, and that even if it furloughs the EDR's it will have to furlough other EDA employees. A result of our decision may thus be that since the EDR's cannot be furloughed as proposed, more EDA employees than originally anticipated may have to be furloughed. At the prese time, however, we have not independently verified whether Commerce's contentions are accurate.

We conclude, therefore, that § 110A of the Act requires that the Department of Commerce fund and maintain at least 47 EDA positions in the various states within the approved organizational structure which was in place on June 1, 1981, that employees actually occupy these positions until September 30, 1982, and that, where possible, these positions should be filled by those employees who held them on June 1, 1981. The

proposed furlough, by its nature, would not comply with these requirements. Accordingly, it would be illegal for the Department of Commerce to implement the proposed furlough.

Sincerely yours,

for Comptroller General
of the United States

How can this Subcommittee help you to work out of your deficiency; for instance, if we could lower the number of EDRs to the number on board?

Filling the nine "vacancies" which now exist would certainly not be advisable at this time. Such an action (assuming that the vacancies could be filled almost immediately) would increase the unresolved deficit by almost half a million dollars. We have not in fact considered filling the vacancies and have not considered the potential cost of doing so to be part of the deficit projections we have been working to resolve.

ADMINISTRATIVE FUNDING SITUATION

Do you have sufficient funds at this time -- now -- to meet EDA's March payroll?

The Continuing Resolution provides $25 million for the entire year. The amount actually apportioned is $15.1 million. We will meet the March payroll.

How many people are now on board?

As of March 12, 1982 there were 463 employees on EDA's rolls.

Headquarters: full time permanent	248	
Headquarters: temporary appointments	6	
Subtotal		254

Regional Office: full time permanent

Philadelphia	48
Atlanta	36
Chicago	31
Denver	26
Austin	31
Seattle	37
Subtotal	209
Grand Total	463

What is the total amount of funds needed to meet the current payroll. What would be needed for support of the present staff level for the third and fourth quarters of FY 1982?

Our current bi-weekly payroll including direct salaries, benefits and leave is approximately $770,000 (based on the average for the last three payrolls). On this basis (i.e. $77,000 per day) the costs for the third and fourth quarters would be $5,005,000 and $5,082,000 respectively. This is far in excess of the amounts budgeted for this purpose within the $25 million provided in the Continuing Resolution. The furlough of all EDA employees (including EDRs) for twelve days will save an additional $700,000 to $800,000 reducing the unresolved deficit to approximately $2.8 million. To solve this problem through additional furlough would require a total shut-down for a full two months.

What certainty is there that the Office of the Secretary of Commerce will not present additional charges for its services?

We are reasonably certain that this will not occur.

Provide a list of the costs of each of the following that are paid out of salaries and expenses for both FY 1981 and FY 1982.

Office of Inspector General
Office of the Secretary
Pay increases
GSA charges
Moving costs for rotation of Regional Directors

The following table shows the amounts budgeted for each of these items.

	FY 1981	FY 1982
o OIG (for LPW Audits)	$1,300,000	$1,100,000
o Office of the Secretary:		
- Departmental Charges	158,627	350,211
- Working Capital Fund	1,186,551	1,071,257
o Pay Costs		
- October Pay Raise	...	680,000
- January "Cap removal"	...	291,000
o GSA Charges		
- Space	2,019,332	2,424,698
- FTS (original billings)	590,189	864,768
(Note: We have been advised that FTS charges will be reduced to $486,400.)		
- Commercial phones	323,000	225,000
o Moving Costs for Regional Directors	...	41,000

Given the shortages of salaries and expenses, why did EDA choose at this time to rotate its regional directors from Seattle, Denver, and Philadelphia? And what do you estimate will be cost of these moves?

The Regional Directors of the Regional Offices in question are all in the Senior Executive Service (SES). One of the essential features of SES positions is that the incumbents are management generalists and can be reassigned to any one of a number of SES positions.

Mobility on the part of Senior Executives is beneficial to both the Agency (i.e. the experience of the SESer can be utilized in a different work environment) and the individual Senior Executive (i.e the SESer can gain new experiences and broaden his/her background).

EDA's scheduled moves of Regional Directors is as follows:

- The Regional Director of the Philadelphia Regional Office will assume the duties of one of the most senior program positions in Washington - that of Director, Economic Development Operations; an SES position that is currently vacant. This move can only be viewed as one in which the the incumbent has greater responsibility and authority.

- The Regional Director of the Denver Regional Office will assume the position of Regional Director of the Philadelphia Regional Office. Based on the size of EDA's program, the Regional Director will assume a position with greater program scope than he had in the Denver Office. Again, this move can only be viewed as

one in which the the incumbent has greater responsibility and authority.

- The Regional Director in the Seattle Regional Office was slated to move to the Denver Regional Office. However, because of personal ties to Seattle, the Regional Director elected not to accept the reassignment and resigned.

Relocation costs are estimated to be:

o Philadelphia to Washington DC	$16,900
o Denver to Philadelphia	20,300
Total	$37,200

How many times in the past year did the Office of the Secretary and the Office of the Inspector General present additional charges for FY 1982 and FY 1983?

We are paying $1.1 million for auditing services related to the close out of LPW. This compares to $1.3 million for FY 1981. The $1.1 million was agreed to prior to the start of the year and has not been changed.

How do you negotiate with OIG/DOC for charges for their services?

OIG charges are related to the close out of LPW projects. EDA Budget and program staff discuss workload schedules and close out objectives with the OIG and agree on an annual budget amount. This has not been a source of conflict or uncertainty.

PLANNING GRANTS FOR DISTRICTS

What is the present status of the Planning Grant funds?

Of the $25.5 million appropriated for the Planning program during fiscal year 1982, $15.0 million is available for the District planning program. These funds will provide sufficient resources to fund existing District planning organizations from January 1 through September 30, 1982. Currently, the Agency has been apportioned $7.5 million through March 31, 1982, which enables us to extend currently funded Districts for six (6) months retroactive to January 1, 1982. As of yet, we have not funded any District planning organizations.

When will the new criteria be submitted to the Federal Register?

On March 16, 1982, we published the notice concerning fund availability, selection criteria and application procedures in the Federal Register.

When will the majority of the grants be disbursed?

Processing is well underway, and we estimate that approximately 30 percent of the planning grant continuation amendments should be approved by mid-April and the balance by the end of April. The actual disbursement of grant funds will follow shortly thereafter based on requests received from the grantees.

PUBLIC WORKS GRANTS

How many Public Works grants have you approved this fiscal year?

To date, two (2) authorized Public Works projects involving $3,792,000 in EDA Public Works grant funds have been approved. Another 33 projects involving $22.9 million in EDA grant funds are in final review in Headquarters and 83 projects involving $63.3 million are currently being processed by Regional Offices. Additionally, 26 previously authorized applications involving $14.7 million in EDA grant funds have not, as yet, been received in the Regional Offices. Therefore, approximately $101.4 million of the $130 million Public Works appropriation has been committed to previously authorized applications (including previously approved and/or authorized change-of-scope project amendments).

How much of the FY '82 Public Works appropriation has been used this fiscal year?

Approximately $101.4 million of the $130 million Public Works appropriation has been committed to previously authorized applications (including previously approved and/or authorized change-of-scope project amendments).

Do you plan to accept any new grant applications?

Because of the large number of potential project investments presently in the Agency's pipeline (as represented by pre-application or project profile documents on file as of August 13, 1981), we do not anticipate that we will need to, nor are we planning on, accepting any "new grant applications" in order to exhaust the full amount of the $130 million that has been appropriated for Development Grants during FY 1982. However, we are taking action to upgrade the status of some $40 million worth of Development Grant projects to the "authorized application" phase. These projects are currently in the pre-application and/or

profile phase and are, therefore, not considered to be "new grant applications".

CHANGE OF SCOPE

I understand that recently you revised the ruling affecting the change of scope on construction grants. Since this action has the potential of replacing FY '81 funds with FY 1982 funds, thus making it improbable that FY 1982 funds will be spent as Congress intended in the Reconciliation Act, I would like to know the rationale for this change?

a. *How many projects have you applied this revised change of scope ruling to so far?*

b. *How many do you plan to apply the ruling to?*

c. *How much of the FY '81 Public Works appropriation will be affected by this action? (estimate)*

d. *How much of the FY '82 Public Works appropriation will be affected? (estimate)*

The attached list responds to Senator Bumpers' question concerning "change-of-scope" projects. Please be advised that this list covers situations where the Agency had made a decision on formal requests. It does not include potential requests or cases where a final determination on change-of-scope has not been made.

Based on the reviews and determinations made to date, it appears that nine projects involving $5,594,986 in FY 1981 Public Works appropriated funds may be affected by this action.

Those projects which we intend to refund with FY 1982 funds are so noted in the "status" column and amount to approximately $22,372,296.

I understand this action is retroactive, nullifying amendments previously approved. Have you obtained an opinion on the legality of this action?

A line of Decisions of the Comptroller General have established that Federal "agencies have no authority to amend grants so as to change their scope" in a fiscal year subsequent to that in which the appropriated funds were available for obligation. (57 Comp. Gen. 459, 460 (1978); see 31 USC 200(d)) An amendment which amounts to a change-of-scope is the substitution of one grant for another. This substitution "extinguishes the old obligation and creates a new one." The new obligation is chargeable to the current fiscal year's appropriation.

At the time of approval of certain amendments, EDA was acting under the belief that its change-of-scope policy

was not illegal. This belief was based on a meeting with the General Counsel of the General Accounting Office (GAO) in May of 1974. EDA requested this meeting because of the type of project proposals funded by EDA. The General Counsel of GAO made an oral ruling that the prohibition against changes-of-scope did not apply to EDA's public Works program. This meeting and oral ruling were recorded by an internal EDA memorandum, dated May 15, 1974.

Relying on the GAO representation, EDA issued guidelines in Ocotber, 1974, to assist Regional Directors in determining acceptable project modifications. In 1976, EDA published regulations (subsequently amended) in the Federal Register announcing its policy on project modifications. This policy permitted project modifications which could be characterized as change-of-scope.

During the summer of 1980, a task force of the President's Council on Integrity and Efficiency (President's task force) audited the practices of EDA and found that EDA was modifying the scope of grants after the appropriations under which such grants were made had expired. The President's task force contacted the Department of Commerce's Inspector General's Office and the General Counsel's Office concerning this discovery and urged the discontinuation of this practice. Subsequently, after meeting with the Office of the General Counsel and the Office of the Inspector General, EDA recognized the impropriety of its policy of interpreting EDA's regulations (13 CFR 309.26) to permit an illegal change-of-scope of EDA's projects.

In approving amendments involving an illegal change-of-scope, EDA was acting beyond its authority. Therefore, these approvals were ultra vires, are invalid and are a nullity. Accordingly, EDA does not have the authority to disburse funds for such approved projects.

In a number of cases in which it has been determined that change-of-scope project amendments were approved, and where EDA funds have not yet been disbursed, EDA is processing grants from current fiscal year appropriations to replace funds improperly charged against prior years' appropriations. Under the provisions of OMB Circular A-102, when a grant is terminated by the government, the grantee can recover justifiable and allowable costs already expended by it in its performance of the valid, original grant. EDA proposes to pay such valid equitable costs, after an audit by the Office of the Inspector General, from the deobligated funds of such illegal amendment. Therefore, termination of these grants should not result in any loss or undue hardship to the grantee.

EDA must, of course, apply the above described determination to pending applications for project modifications which have not yet been approved.

EDA Projects Determined To Involve Changes of Scope

Grantee/Proj. No.	Description	Original Approv. Date & EDA $	Date Amendment Requested/or Approved	Status
1. Puerto Rico Ports Auth. San Juan, P.R. 01-01-01878	cargo dock and related facilities	4/12/79 $641,600	7/7/81 request made to change site to different city.	Request denied on 2/5/82. EDA is willing to re-authorize an application for FY 82 funds ($641,600) if the project is still viable. The original grant will be terminated.
2. City of Portsmouth, VA 01-01-02179	storm drainage system and re-location of utilities	11/19/80 $1,291,200	6/4/81 request to use approximately $709,000 of underrun funds for additional work.	Request being denied.
3. New Castle Co. Vocational Technical School District Wilmington, DE	Solar energy skill center	8/28/79 $200,000	11/10/81 request to use the grant for different activities.	Request denied on 2/5/82. EDA is willing to re-authorize an application for FY 82 funds ($200,000) if the project is still viable. The original grant will be terminated.
4. Bolivar Co., MS 04-01-02026	Port terminal facilities	10/21/80 $1,330,000	11/18/81 request made to change portion of the project work.	Request denied on 2/5/82. EDA is reauthorizing application for FY 82 funds ($476,000). This part of the original grant will be deobligated.

Grantee/Proj. No.	Description	Original Approv. Date & EDA $	Date Amendment Requested/or Approved	Status
5. Kisatchie-Delta Planning and Development District, Inc., and South Alexandria Comm. Devel. Corp. Alexandria, LA 08-01-18005	industrial building renovation	9/21/79 $840,000	7/24/81 request to change site and project work.	Request denied on 2/5/82. EDA is reauthorizing application for FY 82 funds ($840,000) and will terminate original grant.
6. Anaconda/Deer Lodge Cty. Montana 05-09-02021	develop an economic adjustment strategy.	12/16/80 $100,000	1/[illegible] request to ut[illegible] $85,000 of un[illegible]rrun funds.	Request being denied.
7. Santa Cruz City-Co. Community and Convention Center Authority, CA 07-01-00760	convention center	4/17/72 $1,640,000	4/22/81 request to change grantee to the Port District and the project to harbor improvements.	Request denied on 1/28/82. EDA is reauthorizing an application for FY 82 funding ($1,640,000). Original grant will be terminated.
8. City of Phoenix, AZ 07-01-01854	recreation facilities	9/29/77 $813,000	6/30/81 request to utilize portion of grant ($250,000) for industrial access road.	Request denied on 2/22/82. EDA is reauthorizing new application for FY 82 funding ($250,000) and will deobligate this amount from original project.
9. Yuba Co., CA 07-01-02346	access road	5/29/80 $544,000	11/17/81 request to reuse $173,000 of underrun funds.	Request being denied.
10. City of Ontario, CA 07-01-02347	bridge	10/23/80 $600,000	10/30/81 request to reuse $300,000 of underrun funds	Request being denied. 2/25/82

Grantee/Proj. No.	Description	Original Approv. Date & EDA $	Date Amendment Requested/or Approved	Status
11. City of Bellflower, CA 07-01-02520	downtown infra-structure	7/10/81 $300,000	10/16/81 request to use funds for different work. Original project already accomplished.	Request denied 2/18/82
12. City of Cleveland, OH 06-01-00057	lake front development	11/27/70 $2,998,000	2/25/80 request to change project to an industrial park.	Request denied 1/28/82. EDA has reauthorized an application for FY 82 funding ($2,998,000). Original grant will be terminated.
13. Regional Business & Economic Development Council, East St. Louis, IL 06-01-01110	industrial park	4/18/74 $2,230,900	4/20/81 request from the City, State and an LDC to use the grant for a different industrial park.	Request being denied. EDA has reauthorized an application for FY 82 funding ($2,230,900) and will terminate original project.
14. City of Chicago, IL 06-01-01523	improvements to Stickyard area	9/20/78 $3,655,600	1/12/81 request to change project work.	Request denied 2/5/82. EDA is reauthorizing application for FY 82 funding ($3,655,600) and will terminate original grant.
15. City of Akron, OH 06-01-01642	industrial utilities	9/26/79 $1,911,000	1/7/81 request to reduce the scope and transfer funds to another project.	Request denied on 2/22/82.
16. City of Battle Creek, MI 06-19-01470	purchase and recycle obsolete plant sites	4/14/78 $2,715,000	7/30/81 request to use $2,119,203 of grant to capitalize a revolving loan fund.	Request denied 1/12/82.

Grantee/Proj. No.	Description	Original Approv. Date & EDA $	Date Amendment Requested/or Approved	Status
17. City of Vista, CA 07-01-02351	street improvements	5/8/80 $500,000	11/19/81 request to use $50,000 of underrun funds for additional work.	Request being denied.
18. Brevard Co., FL 04-01-02068	industrial utilities	10/24/80 $1,197,324	12/14/81 request to use $392,000 of underrun funds for additional work.	Request being denied.
19. City of Pulaski, TN 04-01-01977	industrial site	10/16/80 $294,600	11/27/81 request to use $2,400 of underrun funds for additional work.	Request being denied.
20. Water Works Board of Monroe Co., AL 04-01-01979.2	water system	6/3/80 $1,080,000	amendment approved by EDA on 3/24/81 to use $214,975 of underrun funds for additional work.	Grantee being notified that original grant cannot be used to fund project as amended. A new amendment will be processed for $214,975 of FY 82 funds and this amount will be deobligated from the original grant.
21. Southeast Georgia Agric. Production and Devel. Corp., Waycross, GA 04-01-01909	anhydrous ethanol plant	9/21/79 $200,000 3/12/80 $140,000 3/24/81 $160,000 (total $500,000)	amendment approved by EDA on 3/24/81 also changed the size and the site of the size of the facility.	Grantee being notified that approved funds cannot be used for amended project EDA is reauthorizing an application for FY 82 funding ($500,000) and will terminate the original grant.

Grantee/Proj. No.	Description	Original Approv. Date & EDA $	Date Amendment Requested/or Approved	Status
22. Carteret Co. and Carteret Technical College, NC 04-01-01462	convention center	8/11/76 $1,800,000	amendment approved by EDA on 3/7/81 changing the site and modifying the the facility.	Grantees being notified that original grant cannot be used for amended project. EDA is re-authorizing an application for FY 82 funding ($1,800,000) and will terminate the original grant.
23. City of Sumter, SC 04-01-01882	sewage system	9/26/79 $1,200,000	amendment approved by EDA on 6/8/81 to include water system improvements.	Grantee being notified that the original grant cannot be used for the additional work. A new amendment will be processed for $322,055 of FY 82 funds and this amount will be deobligated from the original grant.
24. Redevelopment Auth. of the City of Philadelphia, PA 01-01-01584	conference building	8/24/77 $3,347,000	amendment approved by EDA on 8/5/81 changing project work to facilitate for Market Street East.	Grantee being notified that original grant cannot be used for amended project. EDA is reauthorizing an application for FY 82 funding ($3,347,000) and will terminate the original grant.
25. City of Atlantic City, NJ 01-11-1734.60	energy saving work for the convention center	6/2/78 $100,000	amendment approved by EDA on 7/6/81 to change the project work to different buildings.	Grantee being notified that original grant cannot be used for amended project. EDA is reauthorizing an application for FY 82 funding ($100,000) and will terminate the original grant.

Grantee/Proj. No.	Description	Original & Approv. Date & EDA $	Date Amendment Requested/or Approved	Status
26. City of Norwich, CT 01-01-01168 (original grantee: Norwich Comm. Devel. Corp.)	marina complex	4/19/74 $764,000	amendment approved by EDA on 8/14/81 revising the project work.	Grantee being notified that original grant cannot be used for amended project. EDA is reauthorizing an application for FY 82 funding ($764,000) and will terminate original grant.
27. CLICK Brooklyn, NY 01-01-00334	industrial buildings	6/9/69 $948,800	amendment approved by EDA on 5/15/74 and 8/13/81 changing the buildings to be renovated.	Grantee being notified that original grant cannot be used for amended project. EDA is reauthorizing an application for FY 82 funding ($948,800) and will terminate original grant.
28. Papago Tribe of Arizona Sells, AZ 07-01-1928	business opportunity bldg.	10/31/77 $555,000	amendment approved by EDA on 5/20/81 changing the project to the second phase on EDA funded shopping center.	Grantee being notified that original grant cannot be used to fund project as amended. EDA is reauthorizing an application for FY 82 funding ($555,000) to fund phase 2 of the shopping center. The original grant will be terminated.
29. Covelo Indian Community Round Valley, CA 07-01-02240	wild rice demonstration ctr.	7/13/79 $75,000	amendment approved by EDA on 7/21/81 changing the project work to rodeo grounds.	Grantee being notified that original grant cannot be used for amended project. EDA is reauthorizing an application for FY 82 funding ($75,000) and will terminate original grant.

Grantee/Proj. No.	Description	Original & Approv. Date & EDA $	Date Amendment Requested/or Approved	Status
30. City of Brawley, CA 07-01-01772	multi-purpose center	10/29/76 $368,000	amendment approved by EDA on 9/14/81 changing project work to airport improvements.	Grantee being notified that original grant cannot be used for amended project. EDA is reauthorizing an application for FY 82 funding ($368,000) and will terminate the original grant.
31. Castroville County Water District, CA 07-01-01726 (original grantee for part of funds: Central Coast Counties Devel. Corp.)	water system (originally strawberry cooler)	9/21/76 $153,500 9/11/79 $314,000 9/25/81 $321,862	amendment approved by EDA on 9/11/81 to transfer remaining funds from '76 and '79 grants ($445,366) for strawberry cooler to water project.	Grantee orally notified that 9/11/81 amendment made in error. EDA approved a new amendment on 2/12/82 substituting FY 82 funds ($445,366) for the FY 76 and 79 funds.

DIRECT LOANS

How many direct loans have you approved this fiscal year?

EDA has not approved any direct loans for FY 1982.

How many guaranteed loans have you approved this fiscal year?

As of this time, EDA has not approved any loan guarantees for FY 1982.

How much of the FY '82 direct loan appropriation has been used, so far?

No portion of the FY 1982 direct loan apportionment has been used to date.

Do you plan to accept any new direct loan applications?

EDA does plan to accept new direct loan applications in FY 1982. In this regard, the Regional Offices have been instructed to prepare potential project reports for those potential projects which were in the "Pipeline" prior to August 13, 1981. By legislative direction, those potential projects will be accorded a priority, assuming they satisfy the requisite standards for financial, technical, and legal review. In addition, each of the Regional Offices have been instructed to prepare a potential project report for new direct loan investments in FY 1982.

SELLING ASSETS

Are you considering selling off the direct (business) loan portfolio?

At this time EDA does not have a plan to sell off its direct loan portfolio.

Have you been in discussion with either the Office of the Secretary of Commerce or OMB about selling off the direct loan portfolio?

EDA has had several conferences with OMB and the Office of the Secretary of Commerce concerning a full range of alternatives regarding management and/or sale of the portfolio.

What are the reasons for the sell-off of the loans?

The subject of sale and other alternatives remain under analysis. EDA has reached no conclusion at this time.

What legislative authority does the Department have to support such action when the Act does not specifically authorize it and the legislative history is silent about it?

Reference should be made to Title VII of the Economic Development Act of 1965, as amended.

How would the sale take place as contemplated by OMB and DOC?

As noted above, no conclusion has been reached at this time concerning any available alternative.

Why haven't you discussed this matter formally with the Committee?

It would be premature for EDA to raise this or other related matters on a formal basis with the Committee. As noted above, no conclusion has been reached in this matter.

SUBCOMMITTEE RECESS

Senator BUMPERS. The subcommittee will recess until tomorrow morning at 9:30 when we will consider the request of NOAA, International Trade Administration and the U.S. Trade Assurance Administration.

[Whereupon, at 11:50 a.m., Tuesday, March 16, the subcommittee was recessed, to reconvene at 9:30 a.m., Wednesday, March 17.]

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

WEDNESDAY, MARCH 17, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:45 a.m., in room S–146, the Capitol, Hon. Lowell P. Weicker, Jr. (chairman) presiding.

Present: Senators Weicker, Stevens, and Inouye.

CONGRESSIONAL WITNESS

STATEMENT OF HON. LAWTON CHILES, U.S. SENATOR FROM FLORIDA

Senator WEICKER. Is Senator Chiles here?

Senator CHILES. Yes, Mr. Chairman.

Senator WEICKER. Sit down and unburden yourself.

Senator CHILES. Thank you very much, Mr. Chairman. I am delighted to be before your court.

The concern that I have this morning is the renewed administration effort to kill the Florida frost program. I believe that the elimination of that program would increase our fruit and vegetable losses. The growers are very concerned about the proposed termination, especially after back-to-back freezes in the past 2 years. As you know, this program covers an area across Florida, Texas, and some of the other States.

My particular concern is a unit in Ruskin, Fla., that provides information for basically all of the fruit and vegetable industry in Florida.

Let me say first, if we don't have this unit we will have to depend on the general weather forecast which is so general that it just does not give the kind of information and specifics that growers need.

For example, the citrus growers have elaborate systems for firing the groves in the event of frost and now they are using fuel oil which is very expensive to use. Of course if they fire and the weather does not get cold enough, they burn up a ton of money. They always are waiting to determine if they need to send crews out there to sit all night. They can raise the temperature about 5 to 10 degrees sometimes by putting out a blanket of smoke that means all the difference in the world. If it

gets too cold, it does not help you anyway, so it helps to know whether to pay those thousands of dollars for firing or not.

Those are some of the decisions they make with the fruit frost program information. Of course, the cold generally comes into pockets in different areas and the general weather forecast won't tell them where. The fruit frost service is sophisticated enough to tell you whether cold is moving into the low areas, whether there will be frost, and what time of day that frost will come. All of that kind of information they get only from the service.

Growers use it a lot, the Forestry Service uses it, and the highway patrol uses it to determine whether they are going to have to close roads or not. In the winter time, we get some fires going and when any of that smoke mixes with fog—we have Interstate 4 which goes across the middle part of the State and we have to close that road at times. Knowing whether they are going to have to close it or not is a real lifesaving device. U.S. 27 runs right up the middle of the State; it is the one heavy trucks get on, and if there is fog and smoke it is very, very dangerous.

We are talking about a sum of money which is not horrendous and if there were a sufficient independent service available I believe the growers themselves would say if this is wiped out, we will assess ourselves and take the independent service. The fact is that this information is not now available elsewhere. In a few years it may be out there and especially for smaller growers, and a lot of our orange groves are pretty small—blocks of 20 acres, 30 acres. They cannot now afford the cost of the sophisticated service that they need to have.

Last time this committee was helpful to us, it kept the funding going at 50 percent of the 1981 funding level with staff cutbacks of seven positions and $200,000. That left eight positions and $209,000 so they are operating on 50 percent of the money, 50 percent of the people that they operated on before. Yet for the toughest part of the period that they need that operation down there they could not operate on those kinds of funds themselves and so it is just something they consider to be very important.

When you consider that a number of our citrus now is shipped overseas, it is part of our favorable balance of trade. We send a lot of our grapefruit to Japan now; it is one of the ways we get back some of the dollars that we send over there. So there is some supply side economics to not cutting out a service like this which helps you that way.

Senator WEICKER. Lawton, is this facility open all year long or is it just in the winter time?

Senator CHILES. It is open all year long. It is not something that you can staff part time, it would be good if you could. It is open all year long.

Senator WEICKER. The committee certainly wants to be helpful if we can. I am just trying to find ways that we can come forth with some sort of alternative to what the administration is doing here. This information is not available through the weather stations that you have in the various parts of Florida?

Senator CHILES. No; you would get general weather information but you will not get what the frost service will provide, that specific information. We are now using part of that information and working it in with satellite photos. The University of Florida has a program now of using the satellite photos and the frost information and they are getting pretty detailed about being able to tell people what hours the temperature will fall and where and whether they have to worry about frost. It depends on wind conditions, and other weather factors requiring precise sorts of measurements. They have a network of people that call in and feed information about what temperatures are going to be in the different areas and then they use that. They are beginning to use some of their computers with this information and they are getting very precise.

Senator WEICKER. We will try to be helpful.

Senator CHILES. Thank you.

Senator WEICKER. I will certainly discuss it with the rest of the committee. I recognize your valid points. Let's just see what we can do.

Thank you.

Senator CHILES. All right.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

STATEMENT OF LAWRENCE J. BRADY, ASSISTANT SECRETARY FOR TRADE ADMINISTRATION

ACCOMPANIED BY:

RAYMOND J. WALDMANN, ASSISTANT SECRETARY FOR INTERNATIONAL ECONOMIC POLICY
J. MISHELL GEORGE, DEPUTY ASSISTANT SECRETARY FOR TRADE DEVELOPMENT
KENN GEORGE, DEPUTY ASSISTANT SECRETARY FOR THE COMMERCIAL SERVICES
MICHAEL DOYLE, DIRECTOR OF ADMINISTRATION
RONALD L. WILSON, BUDGET OFFICER
ARLENE TRIPLETT, ASSISTANT SECRETARY FOR ADMINISTRATION
NANCY A. RICHARDS, DIRECTOR, OFFICE OF BUDGET

PREPARED STATEMENT

Senator WEICKER. The amount requested by the International Trade Administration is $137,371,000, a net decrease of $24,862,000 from 1982. The changes from the 1983 base include increases of $4,532,000 and 59 positions for the Foreign Commercial Service and $700,000 for export administration and decreases of $30,094,000 and 28 positions in trade adjustment assistance. The trade adjustment assistance program is proposed to be eliminated.

Appearing on behalf of Commerce is Lawrence Brady, Assistant Secretary for Trade Administration. You may introduce those appearing with you.

Mr. BRADY. Thank you, Mr. Chairman.

Before I do that I want to express the regret of the Under Secretary for International Trade who could not be present because he is currently on a mission with Secretary Buckley in Europe.

With me are Kenn George, Deputy Assistant Secretary for Commercial Services; Mishell George, Deputy Assistant Secretary for Trade Development; to my left Ronald Wilson, Budget Officer for ITA; and Nancy Richards, Director, Office of Budget for the Department of Commerce.

Senator WEICKER. Your statement in its entirety will be placed into the record at this point.

[The statement follows:]

STATEMENT OF LAWRENCE J. BRADY

Mr. Chairman and members of the Committee, I am pleased to appear before you in support of the International Trade Administration's 1983 "Operations and administration" appropriations request of $137,371,000 and 2,365 positions. The amount requested for 1983 reflects a net decrease of $24,862,000 and a net increase of 3½ positions from the 1983 base, and a net decrease of $14,329,000 and a net increase of 67 positions from the amount currently available in the 1982 appropriation. The changes from the 1983 base include increases of $4,532,000 and 59 positions for the Foreign Commercial Service and $700,000 for Export Administration and decreases of $30,094,000 and 28 positions in Trade Adjustment Assistance.

Although ITA recently instituted a limited realignment of functions within Trade Development and International Economic Policy, timing for the submission of the formal budget document was such that it was necessary to prepare this submission using last year's budget structure. However, as indicated in this document and in the realignment crosswalk provided to your staff earlier, there has been no unreported shift in resources between specific programs nor will there be under the newly aligned structure.

The programs operated by the International Trade Administration can be grouped into three functional areas: Trade Development; International Economic Policy; and Trade Administration.

TRADE DEVELOPMENT

For our Trade Development activity, we are requesting $86,495,000 and 1,578 positions, a net increase of $4,532,000 and 59 positions over the 1983 base. These programs are designed to strengthen the international trade and payments position of the

United States. They include Export Development and the U.S. and Foreign Commercial Services.

For the Export Development subactivity, we are requesting $28,157,000 and 416 positions. The programs in this area encourage American firms with untapped export potential to enter foreign markets, in both free and centrally-planned economic markets, through a wide variety of trade promotion and export information services. This subactivity includes funding for the small business export expansion assistance grant program as authorized by the Small Business Export Expansion Act of 1980.

The request for the U.S. and Foreign Commercial Services totals $58,338,000 and 1,162 positions, a net increase of $4,532,000 and 59 positions over the 1983 base. The increase requested is to augment Foreign Commercial Service (FCS) resources to a level sufficient to do the quality job of export promotion expected of the Department of Commerce. Specifically, it will allow for an increase in headquarters staff; an expanded effort to assist U.S. industry to take advantage of the new trade opportunities presented by the MTN agreements; an upgraded training and career development program; a business facilitation program which would allow the FCS to provide certain types of support to small and medium-sized U.S. businesses; a one-time request for funds to relocate selected commercial facilities; an increase in representation funds; and increased staffing in 10 key countries. The U.S. and Foreign Commercial Services provide assistance at sites convenient to the business community both in the United States and overseas. They include 47 District Offices in the United States and Posts in 66 key export markets throughout the world.

During 1982, ITA will reprogram resources within the Trade Development activity by moving 74 positions and appropriate dollars from Export Development to the U.S. Commercial Service

(USCS). To effect this transfer, several functions including seminars, business counseling/trade complaints and "E" Awards, will be transferred to the USCS. Export Development will also increase the contracting out of several activities currently performed in-house including the participant procurement and other support functions for overseas promotional events. The USCS, in addition to continuing the activities transferred from Export Development, will expand upon its export assistance efforts through increased outreach activities by District Offices. Particular emphasis will be placed on increasing the number of export capable firms to enter the foreign marketplace and assisting firms during their initial years of overseas sales activity.

INTERNATIONAL ECONOMIC POLICY

The budget request for the International Economic Policy activity is $11,647,000 and 237 positions, reflecting a net decrease of $30,094,000 and 28 positions from the 1983 base due to the proposed elimination of the Trade Adjustment Assistance program.

This activity is responsible for overall direction and coordination of international economic policy formulation, research, and analysis within the Department of Commerce; implementation of the results of the Multilateral Trade Negotiations (MTN); and participation in the negotiation and implementation of trade agreements.

For the Trade Agreements and Policy Planning subactivity, we are requesting $8,798,000 and 183 positions. These programs develop and implement trade policies and agreements; conduct economic research and analysis in support of policy formulation; and administer the textiles and apparel import and export programs.

For Finance, Investment and Services, we are requesting $2,849,000 and 54 positions. These programs develop the Department's positions on international finance, investment, and service industry issues, and they carry out continuous monitoring and evaluation of foreign investment in the United States.

In Trade Adjustment Assistance, we are proposing the elimination of programs by 1983. This will result in a decrease of $30,094,000 and 28 positions. Loan guarantee authority of $28,250,000 will also be eliminated. Only about 65 firms per year have benefited from TAA loans and loan guarantees of which a significant portion have failed to adjust to import competition. Trade Adjustment Assistance to firms has a high default rate since most of the firms assisted are close to bankruptcy. As of June 30, 1981, 30 percent of the TAA portfolio was delinquent in meeting payments and another 33 percent was in the process of liquidation.

TRADE ADMINISTRATION

For our Trade Administration activity, we are requesting $18,911,000 and 429 positions, a net increase of $700,000 over the 1983 base. This activity is responsible for implementing a number of programs which regulate the flow of trade both into and out of the United States.

For the Export Administration subactivity, we are requesting $10,731,000 and 256 positions, an increase of $700,000 over the 1983 base. This increase will be used to replace the existing computerized export license processing system and extend this system to some ITA District Offices. This program implements export controls for reasons of national security, foreign policy, and short supply; conducts programs to oppose restrictive trade practices or boycotts; and operates to assure the availability of

industrial resources for national emergencies and for national defense, energy, and other priority sectors.

For the Import Administration subactivity, we are requesting $8,180,000 and 173 positions for the Department's antidumping and countervailing duty programs to protect U.S. industry from injury due to sales of foreign goods at prices below fair value, and foreign government subsidization of imports into the United States. Import Administration is also responsible for the Foreign Trade Zones, Watch Quota, Florence Agreement, and Foreign Excess Property Programs.

Finally, we are requesting $20,318,000 and 121 positions for the Administration subactivity to provide administrative management services to support the program areas of ITA and fund centrally budgeted items such as space rental payments to GSA, telephone payments, and Working Capital Fund payments to the Department.

One item, not included in this budget request, but which we will be calling to your attention in the near future is the Louisiana World Exposition. The Louisiana World Exposition is scheduled for May through October 1984. It has been recognized by the President and registered by the Bureau of International Expositions. The theme is Rivers of the World -- Fresh Water as a Source of Life. The Department is currently assessing participation options and associated costs. A final plan for Federal participation will be forwarded to the Office of Management and Budget by the end of March. An appropriation request not to exceed $10,000,000 in accordance with Presidential instructions is expected to be sent to Congress soon thereafter.

Mr. Chairman, this concludes my prepared statement. I will be pleased to answer any questions you or the Committee may have.

BUDGET REQUEST

Senator WEICKER. Why don't you go ahead and summarize.

Mr. BRADY. Mr. Chairman, the International Trade Administration's 1983 operations and administration appropriations request is for $137,371,000 and 2,365 positions. The amount requested for 1983 reflects a net decrease of $24,862,000 and a net increase of 31 positions from the 1983 base, and a net decrease of $14,329,000 and a net increase of 67 positions from the amount currently available in the 1982 continuing resolution. The changes from the 1983 base include increases of $4,532,000 and 59 positions for the Foreign Commercial Service and $700,000 for export administration and decreases of $30,094,000 and 28 positions in trade adjustment assistance.

Rather than read through the next 5 or 6 pages I will summarize or I will read the statement if you prefer.

Senator WEICKER. No; let me ask a few questions here and then get to the various points that are of interest to the committee.

Mr. BRADY. All right.

EXPORT ADMINISTRATION LICENSING

Senator WEICKER. Under the Export Administration Act you have certain administrative and decisionmaking responsibilities in the licensing of commercial exports. In April of last year GAO testified that the licensing system has largely become a meaningless paper exercise because a majority of the applications are processed with little, if any, Government review.

What effort has been made to eliminate those items which no longer represent a military risk from licensing requirements?

Mr. BRADY. Mr. Chairman, let me make a couple of points. One, that this GAO exercise came about partly as a result of testimony that I delivered in 1979 before a House committee and was picked up over here. I talked extensively with the GAO on that exercise.

When the President went to the Ottawa summit last summer, he raised with our allies the need to redesign the system of controls that we have in high technology. We had a number of meetings in the fall with them, and a high level meeting last January in Paris. There is a political commitment to take a fundamental look at the controls over the next year and try to look at the rest of the century in terms of what we want to keep the Soviets from obtaining in the United States; such as preventing their acquisition of certain design and manufacturing technology know-how. This is precisely what we are going to do over the next year.

Senator WEICKER. If the majority of applications which receive little review were eliminated, how many staff years could be eliminated from your fiscal year 1983 budget?

Mr. BRADY. Mr. Chairman, absolutely none. Let me give you the example of assessing the military implications for the United States of technology transfer know-how. It is a fact that it is more difficult to evaluate militarily relevant duel use technologies, which our adversaries seek, such as process know-how and critical keystone equipment than

traditional types of equipment such as a Singer sewing machine that may contain a microprocessor. This means that the resources required, in terms of man-years, to do the job in the future, even with modifications in the licensing process, will not be reduced but may even increase as greater emphasis is placed on controlling militarily critical technologies which also have commercial applications.

TRADE ADJUSTMENT ASSISTANCE

Senator WEICKER. The statutory authority for trade adjustment assistance expires September 30, 1983. However, you propose to abolish your program of assistance to firms injured by imports. The high default rate of the firms assisted is the principal reason cited. In addition, the budget submission states that:

> . . . only about 65 firms per year have benefited from TAA loans and loan guarantees of which a significant portion have failed to adjust to import competition.

Will the administration propose any alternative forms of assistance for those firms and workers who may be injured by imports?

Mr. BRADY. I think there are a couple of points to be made here. One, the unfair trade laws are being administered by this administration much more aggressively than they have been in the past. We intend to take action against those imports in this country that are undermining our own markets, either in the dumping sense or those that are being subsidized.

Second, it is my understanding we are exploring, and Mr. George can deal with that, in a little more detail how the Small Business Administration might pick up in terms of filling in with their assistance.

Mr. GEORGE. Two points. The first is that there is some assistance available from the Small Business Administration. Second, there is technical advice available primarily through the service corps of retired executives which can absorb part of this burden.

NONRUBBER FOOTWEAR INDUSTRY ASSISTANCE

Senator WEICKER. Regarding the special assistance program for the U.S. nonrubber footwear industry, does the administration consider this program a failure like the overall assistance program?

Mr. BRADY. Mr. Chairman, I would like to defer again to Mr. George.

Mr. GEORGE. There remains in the program some of the private organizations and activities that will carry on some of the industrywide aspects of the effort, including industry participation in some of ITA's export promotion efforts. In general, there were a number of successes in the program, but I cannot give you an overall evaluation. I shall provide additional information for the record

Senator WEICKER. All right.

[The information follows:]

NONRUBBER FOOTWEAR INDUSTRY SUPPORT

It is difficult to tell whether the TAA footwear program was successful, since it was coupled with orderly marketing arrangements that strictly limited footwear imports. The program was perceived by the footwear industry as helpful. We did adapt elements of the footwear program into the other programs, but cannot judge whether, in the absence of orderly marketing agreements or even with them, TAA's industry programs would have been significantly more successful.

POSITION INCREASE FOR ITA'S FOREIGN COMMERCIAL OPERATIONS

Senator WEICKER. With the exception of eight positions to be transferred from the Office of the Secretary, the only request for an increase in personnel is for ITA's foreign commercial operations. ITA is requesting an increase of 59 positions and $4,532,000 to increase the Foreign Commercial Service's resources to a level ". . . sufficient to do the quality job of export promotion expected of the Department of Commerce."

Considering the fact that you currently have 2,298 permanent positions and a budget of $151.7 million, why couldn't all or at least some of the requested increase for foreign commercial operations be met by reprograming within ITA?

Mr. BRADY. Mr. Chairman, we have in the last year gone through a fundamental overview of ITA. There is a slight realinement taking place which I believe your staff is familiar with. It is our very strong belief that we are down to the core in terms of being able to carry out the mission of ITA with the people that we have.

Let me address the Foreign Commercial Service needs for a second, and Mr. George can do that in more detail. When we look at what has happened between 1960 and the present, in terms of our share of manufacturing goods worldwide, it has declined from something like 25 percent in 1960 to under 18 percent now. What that means is a tremendous loss of jobs. What we have to do is to get some of the newer manufacturing firms into the export market. We are succeeding in that but we have got to do it to a much greater extent than we have in the past and that is basically what this is all about.

Mr. George can address the details of the increase.

Senator WEICKER. Why don't you go ahead and submit that for the record.

[The information follows:]

FOREIGN COMMERCIAL SERVICE INCREASE

Headquarters staff.—Fifteen additional positions and $389,000 are requested.

Multilateral trade negotiation implementation.—Nineteen positions and $1.082 million are requested to assist U.S. industry in taking advantage of new trade opportunities presented by MTN agreements. The 19 positions include 9 officers, 3 secretaries, and 7 foreign service nationals.

Training and career development.—Nine additional positions and $1.149 million are requested to upgrade existing training and career development programs to maintain a quality staff in a highly competitive environment in 66 countries.

Business facilitation services for small and medium business.—$300,000 is requested to provide small businesses with "offices away from home" in 16 FCS countries. This service will allow visiting business people traveling abroad to gain easy access to office space, secretarial services, photocopying, telex, telephone, and other support services through the embassies at reasonable cost.

Relocation of commercial facilities.—$592,000 is requested for configuring and equipping new office space in seven posts in order to meet the needs of local business visitors. Offices in these seven posts are currently inconvenient to the business community for a number of factors.

Increased represen:ation funds.—The current FCS ceiling of $111,000 would be increased to $161,000.

Increased staffing in 10 key countries.—Sixteen positions and $970,000 are requested to meet the demand in 17 key markets.

REPRESENTATION FUNDS

Senator WEICKER. You are requesting an additional $50,000 for representation funds. What is the current budget for representation funds?

Mr. BRADY. $115,200.

Senator WEICKER. Where would the requested funds be used?

Mr. BRADY. In the Foreign Commercial Service overseas primarily.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. I have other questions which I will submit to you for response to the record. I thank you very much.

Mr. BRADY. Thank you very much.

Mr. WILSON. Thank you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

International Trade Administration

Export Licensing: A Meaningless Paper Exercise

Under the Export Administration Act, you have certain administrative and decisionmaking responsibilities in the licensing of commercial exports. In April of last year, GAO testified that the licensing system has largely became a meaningless paper exercise because a majority of the applications are processed with little, if any, goverment review.

What effort has been made to eliminate those items which no longer represent a military risk from licensing requirements?

In January of 1982, the Department of Commerce was invited by the GAO to comment on its report entitled "Export Control Regulation Could be Reduced Without Affecting National Security", which was prepared last year. In those comments, we tried to correct what we believe to be a number of misconceptions about the export licensing process.

In several parts of the report the statement is made that Commerce unilaterally processes cases and merely "rubber stamps" them. Some export license applications do receive more scrutiny than others, but that depends on the nature of the technology or equipment proposed for export. All applications are reviewed for the appropriateness of the end-use and end-user as well as for proper classification of the commodity by Commerce staff, who is knowledgeable in the application of dual-use technology to military systems.

All export license applications are thoroughly reviewed, even when the destination is a free-world country. Free-world applications are sometimes denied due to the unsuitability of the end-user or to protect against diversion possibilities.

We are examining ways to eliminate the licensing process for low-technology commodities while not compromising protection of our national interest and furtherance of our foreign policy.

If the majority of applications which receive little review were eliminated, how many staff years could be eliminated from your FY 1983 budget?

In several parts of the report the statement is made that Commerce unilaterally processes cases and merely "rubber stamps" them. Some export license applications naturally receive more scrutiny than others, depending on the nature of the technology or equipment proposed for export. All applications are reviewed for the appropriateness of the end-use and end-user as well as for proper classification of the commodity.

All export license applications are thoroughly reviewed, even when the destination is a free-world country. Free-world applications are sometimes denied due to the unsuitability of the end-user or to protect against diversion possibilities.

Further, how much would such a move save industry?

We are examining ways to streamline the licensing process for low-technology commodities while not compromising protection of our national interest and furtherance of our foreign policy. We cannot now estimate whether any such moves will result in savings to business or, if so, how much those savings will be.

Soviets Pick-up Efforts to get U.S. Technology: Enforcement

The FBI has reported that Russia has stepped up its efforts to obtain Western technology especially computers, microelectronics, fiber optics, and lasers.

What steps has your office of compliance taken to provide a more credible deterrent to illegal exports? How are these efforts coordinated with those of other government agencies?

Our enforcement efforts have been strengthened considerably. We are conducting more investigations than ever before. The number of inspectors has been increased and new offices will be opened soon in California, located in the core of the high technology industry. In FY 1981 there were 258 cases investigated, 160 illegal shipments detected, and 128 illegal shipments seized (the remaining shipments were released upon issuance of license). This is quite an improvement over FY 1980 when 88 illegal shipments were detected and 67 seized and over FY 1979, when 97 illegal shipments were detected, and only 41 shipments were seized. We expect to do even better in the future.

We recognize that there has been a lack of coordination among enforcement agencies and are working to solve this problem. We also are working to augment the enforcement capabilities of our staff. For example, there is close coordination with the CIA to develop and use information which does not jeopardize their sources. They have been very cooperative in providing information for our investigations.

We also work closely with the Customs Service, which has recently expanded its efforts. Customs' Project EXODUS, for instance, has established an additional 12 ports (plus rotating locations) at which inspections are conducted. Some 200 inspectors have been assigned to the project. In addition, during the past year, 11 ports of export were covered on a rotational basis by our investigators.

We also use Customs investigators overseas. They are brought into cases through our requests for investigative assistance directed to our embassies. However, the Customs staff is small and unable to keep up with our workload. Our own investigators conduct investigations overseas at times, depending upon the case's complexity and sensitivity, and availability of staff at the site.

We are exploring further enhancement of overseas enforcement efforts by contracting with Customs Attaches overseas, and utilizing Foreign Commercial Service staff.

We believe that our enforcement efforts are credible and that they make a difference in preventing illegal shipments and/or punishing violators.

Last year we authorized an additional 15 staff-years for enforcement purposes. Is it true that at least 2 of these positions will not be used for enforcement purposes because they have been assigned to the Deputy Assistant Secretary for Export Administration. Does this level of staffing serve as a practical deterrent?

Of the 15 positions authorized for enforcement purposes, 14 have been assigned to the new Compliance Division offices in California which will open soon in San Francisco and Los Angeles. One position is being utilized in the Washington Compliance Division headquarters. None of the positions have been utilized by the Deputy Assistant Secretary for Export Administration.

I understand that last year Commerce hired consultants to handle one of the Department's most sensitive investigations on an export control violation. Has this been a common practice in the enforcement area and what specific qualifications did the consultants have to conduct such an investigation?

The consultant had been involved, by the Department of Defense, with an assessment of the technological aspects of the case. It was, then, logical and beneficial to bring him into our investigation. He has an extensive investigative background and the appropriate high-level clearances.

I also understand that your Deputy Assistant Secretary for Export Administration traveled to Paris with the consultant to investigate the case. Why didn't you assign some of your best investigators to the case?

The Deputy to the Deputy Assistant Secretary for Export Administration traveled to a European capital, not Paris, to investigate the case. The Deputy to the Deputy Assistant Secretary for Export Administration also took with him one of our investigators assigned to the case. This was deemed to be the best arrangement.

This particular case involved extremely sensitive issues which could adversely affect our relations with the government of an allied nation. Protocol required that a U.S. official of appropriate rank consult with his counterpart in that government on the course of the investigation and its potential consequences.

Small Business Trade Promotion

Section 302(a) of Title III -- Small Business Export Expansion Assistance -- of P.L. 481 provides for Commerce to make grants to qualified applicants to establish regional small business international marketing programs. I would like to know if you intend to fund this program in FY 1982 and the status of efforts in this regard.

The program will be implemented during FY 1982. A public notice soliciting applications is scheduled to appear in the March 19, 1982, Federal Register. Applications will be accepted for 60 days following the announcement.

The program will also be publicized by the U.S. Commercial Service District Offices and their respective District Export Councils. We expect the selection process will be completed by August 1982, and that the entire $2 million will be obligated by the end of the fiscal year.

What effort is being made to focus or target your export promotion activies to small business manufacturers who are not currently exporting?

The Department of Commerce's export promotion activites are available to all firms. However, the Department has established as a primary goal increasing the number of new-to-export and new-to-market firms, especially smaller firms. The extensive export counseling and awareness building activities carried out by the Department in the 47 District Offices, in Washington, and in countries around the world are designed primarily to assist those firms which are inexperienced or too small to maintain staffs devoted to developing export markets. In FY 1981 over 94 percent of the firms counseled by the U.S. Commercial Service were either small- (73 percent) or medium-sized (21 percent). A significant proportion of these firms were also new exporters.

The majority of firms counseled and the majority of firms using most of our export promotion programs are also small- or medium-sized as indicated in the following table. We have initiated a program to identify the new-to-export and new-to-market firms to which any of our operating units provide significant service. The names of new contacts are being furnished to the appropriate District Office for follow-up assistance.

Small- and Medium-Sized Firm Usage of Selected USDOC Trade Development Services

Program	% Small	% Medium	Total
1. New Product Info. Service (NPIS)	85%	14%	99%
2. Export Mailing List (EMLS)	77%	20%	97%
3. Trade Opportunities Program (TOP)	85%	11%	96%
4. Agent/Distributor Service (ADS)	53%	38%	91%
5. A Basic Guide to Exporting	65%	21%	86%
6. Foreign Market Research	53%	32%	85%
7. Worldwide Info & Trade Sys. (WITS)	40%	40%	80%
8. World Traders Data Service (WTDR)	40%	34%	74%
9. Overseas Business Reports (OBR)	32%	25%	57%
10. Foreign Buyers Program	35%	20%	55%

What effort, if any, is being made to identify small business manufacturers who are either capable of or interested in exporting?

The Department's U.S. Commercial Service, Foreign Commercial Service (FCS), Trade Development, and International Economic Policy units are working together to identify and assist small businesses with export potential.

The Department's District Offices are conducting a multi-faceted promotion campaign to stimulate interest among small- and medium-sized firms in exporting. This campaign uses seminars, media releases, newsletters, direct mail, telephone contacts, and personal visits to firms thought to have potential. Extensive use is being made of non-Federal organizations to augment these efforts.

In developing their client base, the District Offices are using all available information sources, including state business directories and referral from multiplier organizations. Inquiries directed to the FCS or other units by U.S. firms are referred to District Offices for appropriate follow-up and assistance.

Small firms will be encouraged to register in the Automated Information Transfer System (AITS) so that they can then be alerted to a variety of export assistance program activities including seminars, overseas exhibits, availability of market research and overseas business opportunities.

Additional resources are being applied in the Department's District Offices to increase the number of visits by international trade specialists to small- and medium-sized firms and to conduct exporting seminars and training courses in smaller cities.

What are the principal reasons why these small business manufacturers are currently not exporting? Can you explain how your programs seek to address the reasons for them not exporting?

Small manufacturing firms do not export for a number of reasons. These include: 1) preoccupation with the vast domestic market; 2) lack of expertise on foreign trade; 3) lack of awareness of opportunities or benefits to be gained from exporting; and 4) unfamiliarity with the types of assistance available to help them begin exporting.

We aim to overcome these problems by providing specific marketing information and assistance. The programs provide: basic "how-to" information plus product and country information; specific trade leads and identification of foreign business contacts; encouragement to foreign buyers to visit U.S. trade shows; opportunities to demonstrate U.S. goods and services in foreign markets; and in-depth consultation with individual firms. In addition, beginning this year, there will be a small business grants program to expand the universe of information and counseling sources by federal funding of a selective group of private sector and state and local government outreach efforts.

In view of a rising State Government interest in export promotion activities, would you comment on how your activities are coordinated with those of the States?

The U.S. Commercial Service (USCS) is responsible for coordinating the Department's trade promotion activities with state government agencies. State development agencies concerned with export promotion usually are appointed to serve on District Export Councils. Each USCS District Office also prepares and enters into a formal agreement annually with its respective state development agencies. These agreements identify activities that will be pursued jointly to expand exports. Such activities as seminars, trade missions, counseling referrals, identification of potential exporters, and participation in Commerce exhibitions or catalog shows, are covered by these agreements.

Meetings held during 1981 with a joint committee of the National Governors' Association and the National Association of State Development Agencies have resulted in a policy statement outlining the Department's cooperation with the states.

What is your view of the potential for conflict and overlap among the many State offices being established in foreign countries? How do these activities impact on the activities of the Foreign Commercial Service?

Now that most of the states maintain development offices overseas, the FCS increasingly is being called upon to support their efforts. We welcome the opportunity to work more closely with state development officials and have not found their organizations to be in conflict with our FCS work. Rather, our experience has been that the different states are promoting a mix of services and opportunities which permit foreign customers and investors to compare the relative advantages of individual proposals. We have upgraded the importance that we attach to cooperative efforts with major overseas multipliers such as state offices, banks, and U.S. Chambers of Commerce by making this one of the five critical requirements of a Senior Commercial Officer's annual performance appraisal.

Elimination of Trade Adjustment Assistance Program

The Statutory authority for trade adjustment assistance expires September 30, 1983. However, you propose to abolish your programs of assistance to firms injured by imports. The high default rate of the firms assisted is the principle reason cited. In addition, the budget submission states that:

> *"...only about 65 firms per year have benefited from TAA loans and loan guarantees of which a significant portion have failed to adjust to import competition."*

Will the administration propose any alternative forms of assistance for those firms and workers who may be injured by imports?

No. However, there are a number of federal programs that can be utilized. For example, loans and loan guarantees are available from the Small Business Administration and the Farmers Home Administration.

Why has this program failed to achieve its goals? Are the contributing factors attributable to the recipients? to program administration? or both?

There are a number of reasons for the program's failure. Many of the firms that came for assistance were already in such a tenuous financial condition that the help that can be given by the government is too late. Second, and related, many of the managers of these firms are not aggressive and efficient managers, and they are unable to develop effective turn-around strategies.

What are the current amounts of outstanding loans and loan guarantees under this program? What are the estimated amounts which will be outstanding on September 30, 1982?

The current amount of outstanding loans and loan guarantees is $224 million.

The estimated amount which will be outstanding on September 30, 1982, is $252 million.

Was Footwear Program a Failure: Regarding the special assistance program for the U.S. non-rubber footwear industry, does the administration consider this program a failure like the overall assistance program? If not, what was different about this special program and what elements could be adapted to assist other firms and industries which are injured by imports?

It is difficult to tell whether the TAA footwear program was successful, since it was coupled with orderly marketing arrangements that strictly limited footwear imports. The program was perceived by the footwear industry as helpful. We did adapt elements of the footwear program into the other programs, but cannot judge whether, in the absence of orderly marketing agreements or even with them, TAA's industry programs would have been significantly more successful.

If this program is abolished in fiscal year 1983, who will administer the outstanding loans and loan guarantees?

When the program is abolished, outstanding loans and guarantees probably will be serviced by the Economic Development Administration, since that agency is already administering the portfolio of loans and loan guarantees approved prior to September 20, 1981.

Will the proposed abolishment encourage or increase the likelihood of default?

It is not expected that the proposed abolishment will have any effect on the likelihood of default.

U.S. and Foreign Commercial Service

With the exception of 8 positions to be transferred from the Office of the Secretary, the only request for an increase in personnel is for ITA's foreign commercial operations. ITA is requesting an increase of 59 positions and $4,532,000 to increase the Foreign Commercial Service's resources to a level "...sufficient to do the quality job of export promotion expected of the Department of Commerce."

Considering the fact that you currently have 2,298 permanent positions and a budget of $151.7 million, why couldn't all or at least some of the requested increase for foreign commercial operations be met by reprogramming within ITA?

ITA has reviewed its base resources over the last several years and eliminated all unproductive programs. Resources have been cut and internal reprogrammings have been instituted (to Export Administration and the Foreign Commercial Service) to meet increasing demands being placed on ITA while, at the same time, optimizing requests for budget increases. As this budget was prepared, ITA found that there were no areas that could be reduced, to the magnitude of the FCS requirements, without being either eliminated, or effectively negated in terms of impact. Because ITA programs represent some of the Department's highest priorities, additional reprogramming does not represent a feasible alternative.

Representation Funds

You are requesting an additional $50,000 for representation funds.

What is current budget for representation funds?

The current FCS budget for representation funds is $111,000. The representation ceiling for all of ITA is currently $115,200.

Can you give me any specific examples where the lack of representation funds has handicapped overseas operations?

Representation funds, as used by FCS officers, are more than just a means to entertain at the Government's expense. FCS officers serve in countries where the development of personal relationships with the host government and business communities is an essential element in a successful trade promotion program. To an extent, we rely on these relationships to gain advance information on key projects which could result in millions of dollars in trade for the U.S. business community.

The FCS representation ceiling allows us to cover approximately 50 percent of representation needs abroad. The $111,000 must be spread over 124 posts in 66 countries on a pro rata basis. This averages less than $900 a year per post and Budapest, for example, which receives less than the average, complains that its ability to meet minimum representation requirements is impossible on only $58 a month.

Last year our post in Buenos Aires spent 90 percent of its annual representation allowance in the first week of the fiscal year for the Ambassador to convene U.S. suppliers and Argentine buyers to discuss upcoming multi-million dollar major projects. In Oslo and Bern, among others, Foreign Commercial Service officers incurred out-of-pocket expenses of more than $1,100 for official representation functions.

In addition, we are now permitted under Foreign Service regulations to provide our Foreign Service National employees with representational funds. These additional monies would allow us to tap directly the extensive representational abilities of our host country colleagues. Funding representation for FSNs would also help our national employees to feel that they are full participants in the trade promotion process and would enhance their stature and effectiveness with the local business community.

Where would the requested funds be used?

Current representation funds are allocated to posts based on four criteria weighted on a scale of 10 as follows: (a) market potential based on a number of market factors (weighting-4); (b) per diem rate in the country (weighting-2); (c) number of FCS staff in country (weighting-2); and (d) local and U.S. business demand on staff (weighting-2).

Export Controls: Petroleum Production Products to Soviet Union

History has continued to point out that embargoes are ineffective in getting another country to alter its behavior, particularly when the embargo involves items readily available from other suppliers. The Russian grain embargo, for example, did not remove the Soviets from Afghanistan, nor did it stop them from obtaining all the grain that they needed. While I would not want to sell the Soviets the rope that they could use to hang us, I am preplexed to find that we are unilaterally controlling items that are generally available elsewhere. At this time, the unilateral controls I find most objectionable involve petroleum production materials and equipment, such as pressure pipe and pipe laying equipment.

Did Commerce advise the President of the cost to the U.S. of imposing unilateral controls on items generally available elsewhere before he made his decision to further restrict exports to the Soviet Union?

An assessment was made of the potential costs associated with imposition of economic sanctions. This was presented to the President prior to his decision. The nature and value of pending export license applications were analyzed. We are hopeful that our allies will continue to support our economic sanctions against the Soviet Union by imposing and strengthening measures of their own.

Has Commerce made any cost estimates of the revenue lost as a result of these unilateral controls?

This figure is difficult to assess. Prior to imposition of the sanctions, however, we projected that 1982 U.S./U.S.S.R. trade would drop by $300 million (from $3.7 billion to $3.4 billion) as a result.

At the time the sanctions were imposed, 244 export license applications were pending with a total value of $133 million. These licenses were returned without action.

Do you annually review these unilateral controls as required by the Export Administration Act?

Yes, DOC conducts an annual review of controls and includes information about this review in the Secretary of Commerce's annual notification to Congress on the extension and expansion of foreign policy controls.

Why do so many items remain on the list, when we know they are generally available elsewhere?

The Commodity Control List is currently under review. Our goal is to continue to control high technology goods and know-how (especially that which is critical to the further development and maintenance of the Soviet military base) while relaxing controls on items at the lower end of the technology spectrum.

The Export Administration Act of 1979 tasks the Department of Commerce to consider foreign availability (among other criteria) in deciding whether or not to control commodities and technical data for foreign policy or national security reasons. National security controls are more clearly defined, since they are agreed upon by the Western Alliance, within the framework of COCOM. Foreign policy controls, however, are used by the U.S. to achieve certain political objectives and, therefore, are dependent on changing foreign policy objectives. American businessmen sometimes feel frustrated when their license applications are denied for foreign policy reasons while their foreign competitors may be free to furnish comparable goods. In establishing export control policy, the President has a difficult task in carefully balancing national security and foreign policy interests with the interests of legitimate U.S. business.

We are currently reviewing the various dimensions of our export control policy, including the effects of foreign availability on export licensing. Thus far, we are not satisfied with the existing mechanism to assess foreign availability on a continuing basis, but we are committed to doing a more thorough job in this area partly through better coordination with industry and other Government agencies. We are committed to doing a better job of ensuring that American business is not unfairly disadvantaged as a result of our export control program. A large part of our success in this regard is affected by the willingness of our allies to support our controls.

Why is it that you continue to require a license for an item when you previously licensed that item for export to Soviet bloc countries?

Although an item may appear to be the same on the surface, there may be a different aspect to it which would affect the licensing decision, such as a disk drive with additional power. Also, since we scrutinize the license application for the appropriateness of the end-user as well as the end-use and the nature of the item itself, each requires individual consideration.

Foreign Direct Investment

For several years now Commerce has agreed with Congressional Committees as to the need for more emphasis on analyzing and publishing studies on the economic impact of foreign direct investment. By doing this, it can keep the public adequately informed about foreign investment activity and the Congress can determine whether there are policy issues that need to be addressed.

In its 1980 report of foreign direct investment in the United States (ID-80-24) GAO noted and Commercial officials concurred on the desirability and feasibility of studying:

-- *borrowing patterns of foreign firms for expansions, new establishments, and acquisitions;*

-- *productivity and growth trends of foreign firms;*

-- *trade patterns between a foreign parent and its U.S. affiliate; and*

-- *costs and benefits of providing Federal, State, and local investment incentives.*

What has Commerce done to address these and emerging issues such as foreign government acquisitions of U.S. firms?

ITA's Office of Trade and Investment Analysis (OTIA) is conducting a comprehensive research program which, inter alia, will explore fundamental issues relating to foreign investment motivation, incentive, and impact within the United States. A series of studies already published and a range of studies currently being performed address investment research recommended by the GAO.

The series of industry studies completed during the first half of 1980 provides detail on the characteristics, extent, and growth of foreign direct investment in U.S. chemicals, machinery, primary and fabricated metals, and food industries.

Similar studies are underway and will be published on the following U.S. industries: petroleum, wholesale trade, and retail trade. A significant research project currently underway, the Noranda Case Study, addresses the financing patterns of foreign firms for establishments and acquisitions in its overall assessment of the impact of an individual foreign direct investment on a local economy. Continued examination of foreign investor motivation forms a part of all the industry studies mentioned earlier, especially from the standpoint of trade patterns between foreign parents and their U.S. affiliates.

Some perspective in this area will be provided in the forthcoming publication, A Perspective on International-Trade Associated with U.S. Direct Investment Abroad. OTIA provided a grant for research in the area of costs and benefits of incentives associated with foreign investment, the results of which will be published shortly, summarizing experiences in five states. OTIA is also preparing to

publish a study entitled Foreign Direct Investment Activity in the United States by Foreign Government Controlled Entities. This publication analyzes trends in foreign direct investment transactions in the United States by foreign government-controlled entities.

International Trade Administration's Organizational Chart

The chart submitted shows ITA's old organizational structure which was changed effective February 15, 1982.

Would you provide us with a copy of ITA's latest organizational chart and statements of functions under ITA's realignment which was effective February 15, 1982? What is the rationale for this new organizational structure? How will ITA's effectiveness be improved?

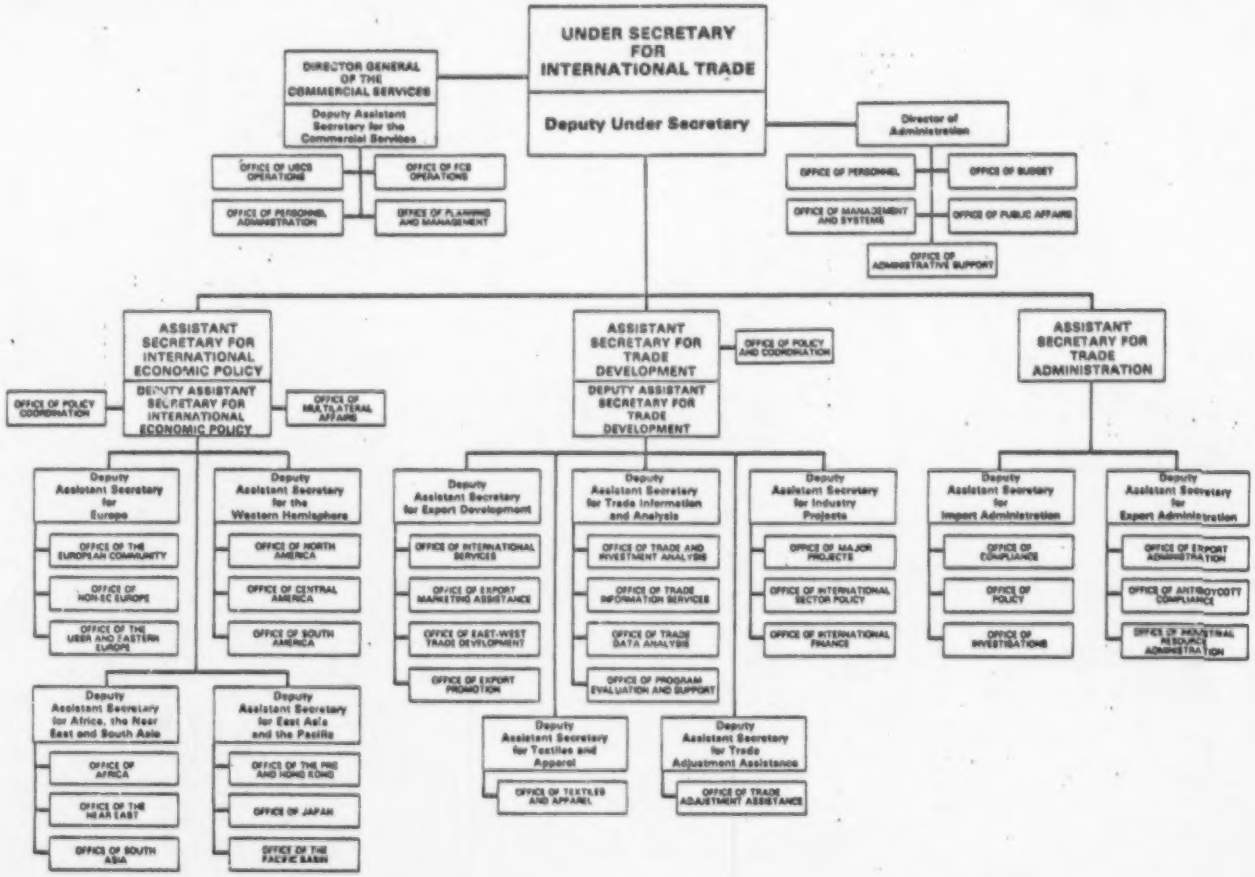
An organization chart and Department Organizaton Order 40-1 describing the functions of the realigned ITA are provided below. This realignment is designed to correct problems of duplication or overlap of functions and absence of clear lines of responsibility and authority. It will improve ITA's effectiveness by:

- providing a clear country focus under the Assistant Secretary for International Economic Policy which will facilitate access to ITA's expertise by business and other Government agencies;

- strengthening the industry sector focus of the units under the Assistant Secetary for Trade Development, thereby improving business access to ITA's promotional and sector policy expertise;

- combining all of ITA's trade statistics and analysis activities under one unit reporting to the Assistant Secretary for Trade Development to improve management and coordination of ITA's information activities; and

- combining the headquarters management of the U.S. and Foreign Commercial Services under one Director General to improve coordination between the two field services and the rest of ITA.


UNDER SECRETARY FOR INTERNATIONAL TRADE
Deputy Under Secretary
DIRECTOR GENERAL OF THE COMMERCIAL SERVICES
Deputy Assistant Secretary for the Commercial Services
OFFICE OF USCS OPERATIONS
OFFICE OF FCS OPERATIONS
OFFICE OF PERSONNEL ADMINISTRATION
OFFICE OF PLANNING AND MANAGEMENT
Director of Administration
OFFICE OF PERSONNEL
OFFICE OF BUDGET
OFFICE OF MANAGEMENT AND SYSTEMS
OFFICE OF PUBLIC AFFAIRS
OFFICE OF ADMINISTRATIVE SUPPORT
ASSISTANT SECRETARY FOR INTERNATIONAL ECONOMIC POLICY
DEPUTY ASSISTANT SECRETARY FOR INTERNATIONAL ECONOMIC POLICY
OFFICE OF POLICY COORDINATION
OFFICE OF MULTILATERAL AFFAIRS
Deputy Assistant Secretary for Europe
OFFICE OF THE EUROPEAN COMMUNITY
OFFICE OF NON-EC EUROPE
OFFICE OF THE USSR AND EASTERN EUROPE
Deputy Assistant Secretary for the Western Hemisphere
OFFICE OF NORTH AMERICA
OFFICE OF CENTRAL AMERICA
OFFICE OF SOUTH AMERICA
Deputy Assistant Secretary for Africa, the Near East and South Asia
OFFICE OF AFRICA
OFFICE OF THE NEAR EAST
OFFICE OF SOUTH ASIA
Deputy Assistant Secretary for East Asia and the Pacific
OFFICE OF THE PRC AND HONG KONG
OFFICE OF JAPAN
OFFICE OF THE PACIFIC BASIN
ASSISTANT SECRETARY FOR TRADE DEVELOPMENT
DEPUTY ASSISTANT SECRETARY FOR TRADE DEVELOPMENT
OFFICE OF POLICY AND COORDINATION
Deputy Assistant Secretary for Export Development
OFFICE OF INTERNATIONAL SERVICES
OFFICE OF EXPORT MARKETING ASSISTANCE
OFFICE OF EAST-WEST TRADE DEVELOPMENT
OFFICE OF EXPORT PROMOTION
Deputy Assistant Secretary for Trade Information and Analysis
OFFICE OF TRADE AND INVESTMENT ANALYSIS
OFFICE OF TRADE INFORMATION SERVICES
OFFICE OF TRADE DATA ANALYSIS
OFFICE OF PROGRAM EVALUATION AND SUPPORT
Deputy Assistant Secretary for Industry Projects
OFFICE OF MAJOR PROJECTS
OFFICE OF INTERNATIONAL SECTOR POLICY
OFFICE OF INTERNATIONAL FINANCE
Deputy Assistant Secretary for Textiles and Apparel
OFFICE OF TEXTILES AND APPAREL
Deputy Assistant Secretary for Trade Adjustment Assistance
OFFICE OF TRADE ADJUSTMENT ASSISTANCE
ASSISTANT SECRETARY FOR TRADE ADMINISTRATION
Deputy Assistant Secretary for Import Administration
OFFICE OF COMPLIANCE
OFFICE OF POLICY
OFFICE OF INVESTIGATIONS
Deputy Assistant Secretary for Export Administration
OFFICE OF EXPORT ADMINISTRATION
OFFICE OF ANTIBOYCOTT COMPLIANCE
OFFICE OF INDUSTRIAL RESOURCE ADMINISTRATION

TRANSMITTAL 580

United States of America DEPARTMENT OF COMMERCE	DEPARTMENT ORGANIZATION ORDER 40-1	
DEPARTMENT ORGANIZATION ORDER SERIES	DATE OF ISSUANCE February 16, 1982	EFFECTIVE DATE February 15, 1982

INTERNATIONAL TRADE ADMINISTRATION

SECTION 1. PURPOSE.

.01 This Order prescribes the organization and assignment of functions within the International Trade Administration (ITA). Department Organization Order 10-3 prescribes the functions and the scope of authority of the Under Secretary for International Trade.

.02 This revision reflects a realignment of functions under the Assistant Secretaries for International Economic Policy and Trade Development, and the Director General of the Commercial Services. Outstanding amendments to the Order are also incorporated.

SECTION 2. ORGANIZATION STRUCTURE.

The principal organization structure and line of authority of ITA shall be as depicted in the attached organization chart (Exhibit 1).

SECTION 3. UNDER SECRETARY FOR INTERNATIONAL TRADE.

The Under Secretary for International Trade (the "Under Secretary") determines policy, directs the programs, and is responsible for all activities of ITA. The Under Secretary coordinates all issues concerning trade administration, international trade and commercial policy, and trade development; and, in the absence of the Secretary of Commerce, represents the Department on the Trade Policy Committee, as ex-officio member of the Board of the Export-Import Bank of the United States and, as assigned, serves on all other Secretarial-level boards, committees, or panels of which the primary focus is international trade. The Office of the Under Secretary is responsible for Congressional liaison for ITA in coordination with the Assistant Secretary for Congressional Affairs, and includes the Planning and Evaluation Staff which identifies issues or problems requiring the attention of the Under Secretary or coordination between program areas; monitors and coordinates the preparation of studies, reports, Congressional testimony, speeches and other items addressing these issues; directs, coordinates and monitors ITA participation in interagency staff activity and represents ITA in this activity when appropriate; and develops and reviews policy options and recommendations on issues when requested by the Under Secretary.

SECTION 4. DEPUTY UNDER SECRETARY FOR INTERNATIONAL TRADE.

.01 The Deputy Under Secretary for International Trade (the "Deputy Under Secretary") is the principal deputy to the Under Secretary, performs such duties as the Under Secretary may assign, and performs the functions of the Under Secretary in the latter's absence or disability or in the event of a vacancy in that office. The Deputy Under Secretary is responsible for the day-to-day management of ITA.

.02 The Office of the Deputy Under Secretary includes the Director of Administration who is the principal advisor to the Under Secretary and the

Deputy Under Secretary on management policy for the International Trade Administration. Specifically, the Director of Administration:

a. Develops and administers, for Civil Service personnel, personnel management programs including recruitment and placement, employee development, classification, labor-management relations, equal employment opportunity, employee relations, and provides liaison with the Departmental Office of Personnel;

b. Provides management, organization and systems analysis, including management studies and surveys and organizational planning studies; coordinates ADP systems development; performs the committee management, directives management, records management, forms management, files management, correspondence management and reports management functions for ITA; coordinates GAO and Departmental audits activity in ITA; coordinates activity under the Freedom of Information Act and the Privacy Act of 1974; operates an ITA-wide text processing system; and provides liaison with the Departmental Office of Organization and Management Systems, the Office of Information Management, the Office of Program Planning and Evaluation, and the Office of Inspector General;

c. Formulates, presents, executes, and assesses program effectiveness of the ITA budget; effects financial and budgetary controls; prepares budget reports; and provides liaison with the Departmental Office of Budget;

d. Provides administrative support services for ITA, including safety, security, correspondence control, space management, and procurement liaison; and

e. Advises on all public affairs and information service matters; provides ITA centralized information services, conducts and is responsible for publications programs, consonant with the provisions of Department Organization Order 20-9, "Office of Publications;" provides speech writing and scheduling services; coordinates all audiovisual, exhibit, and advertising activities; maintains liaison with the Departmental Office of Publications, the Departmental Office of Public Affairs and the news and trade media consonant with the provisions of Department Organization Order 15-3, "Office of Public Affairs;" and publishes Business America magazine.

SECTION 5. DIRECTOR GENERAL OF THE COMMERCIAL SERVICES.

The Director General of the Commercial Services (the "Director General") is responsible for providing management processes and for providing management support functions for the Foreign Commercial Service (FCS) and the U.S. Commercial Service (USCS). The Director General will coordinate the appropriate functions with the Assistant Secretary for International Economic Policy (and the Regional Deputy Assistant Secretaries) for specific FCS country program and supervisory purposes; with the Assistant Secretary for Trade Development (and the Deputy Assistant Secretary for Export Development) for USCS program supervision purposes; and with the Director of Administration for USCS personnel management purposes. Specifically, the Director General:

.01 Serves as visible spokesperson for the Commercial Services as a whole, notably with business and other external constituencies;

.02 Develops, in coordination with the Departmental Office of Personnel and the Department of State, and administers for Foreign Service and Foreign Service National (FSN) employees of the FCS, personnel management programs including recruitment and placement, employee development, classification, labor-management relations, equal employment opportunity, employee relations, promotions, career planning and separations, and provides liaison with the Department of State on FCS personnel issues;

.03 Develops and implements personnel programs for the Commercial Services, including: recruitment, training, career development, and personnel assignments. The Director General retains overall responsibility for all senior FCS and USCS performance evaluations (coordinating with the appropriate line Deputy Assistant Secretary who evaluates senior personnel for program purposes);

.04 Develops and implements a unified personnel and post goal-setting and evaluation process which integrates the activities of the two services with each other and the rest of ITA;

.05 Develops and manages a country planning process in coordination with the relevant regional and trade program Deputy Assistant Secretaries;

.06 Administers a system of Foreign Commercial Service posts located in commercial centers throughout the world, which, in accordance with the country plan, support and carry out trade promotion activities, develop marketing and commercial intelligence, facilitate U.S. investment, monitor U.S. rights and opportunities created by trade agreements, support ITA import and export administration activities, and provide representation to host governments on behalf of U.S. business firms. The senior commercial officer in a country has overall responsibility for all ITA activities and personnel in that country.

.07 Administers a system of U.S. Commercial Service District Offices (see Exhibit 2) located in commercial centers throughout the United States, which, in accordance with plans developed by the Assistant Secretary for Trade Development, offer U.S. firms counselling on overseas marketing, technical export information, and guidance on marketing opportunities and strategies; conduct seminars, workshops, and conferences; obtain commercial information from U.S. firms for use in planning and evaluating trade programs; and disseminate to the business community information on trade developments, trade policy issues and technological developments;

.08 Publishes the Commerce Business Daily and directs Federal procurement assistance and services programs;

.09 Carries out emergency preparedness functions through District Office Directors in the Uniform Federal Regional Council cities who serve as Regional Emergency Coordinators; and

.10 The Director General is assisted in carrying out these functions by the Deputy Assistant Secretary for the Commercial Services who serves as principal deputy to the Director General and assumes the duties of the Director General in the latter's absence.

SECTION 6. ASSISTANT SECRETARY FOR INTERNATIONAL ECONOMIC POLICY.

The Assistant Secretary for International Economic Policy (the "Assistant Secretary") advises on the analysis, formulation, and implementation of U.S. international economic policies of a bilateral, regional, or multilateral nature and carries out programs to promote world trade and to strengthen the international trade and investment position of the United States. Specifically, the Assistant Secretary has responsibility for devising and implementing appropriate bilateral, regional and multilateral trade and investment policies; promoting U.S. trade objectives in particular countries and regions through supervision of the relevant program activities of the Foreign Commercial Service posts overseas (through the regional Deputy Assistant Secretaries, and in coordination with the Director General); managing bilateral joint commissions and other institutions; participating as appropriate, together with the Assistant Secretary for Trade Development, in reviewing international sectoral issues which arise in a bilateral, regional, or multilateral context;

implementing and monitoring the results of the Multilateral Trade Negotiation; and coordinating ITA participation arising in the context of the GATT and in international organizations such as the OECD, UN, UNCTAD, and others. The Assistant Secretary carries out these functions through:

.01 The Deputy Assistant Secretary for International Economic Policy who:

a. Serves as the principal deputy to the Assistant Secretary, performs such duties as the Assistant Secretary may assign, and assumes the duties of the Assistant Secretary during the latter's absence;

b. Develops positions on international economic and trade policy issues which arise in a multilateral context (participating as appropriate, together with Trade Development officials, in reviewing international sectoral issues which arise in a bilateral, regional or multilateral context);

c. Develops positions on outward investment issues and functional trade policy issues which are not country or sector specific; and

d. Ensures effective cooperation by overseeing, with the Director General, the regional Deputy Assistant Secretaries in the supervision of the program activities of the FCS country posts abroad.

.02 The following regional Deputy Assistant Secretaries:

a. The Deputy Assistant Secretary for Europe;

b. The Deputy Assistant Secretary for the Western Hemisphere;

c. The Deputy Assistant Secretary for East Asia and the Pacific; and

d. The Deputy Assistant Secretary for Africa, the Near East and South Asia.

.03 Each of the regional Deputy Assistant Secretaries, for the countries within his/her region:

a. Analyzes and develops recommendations for international economic, trade and investment policy strategies and objectives and serves as the focal point within the Department for dealing with bilateral international economic, investment and commercial policy issues;

b. Formulates Departmental positions on economic and commercial policies affecting the region, including preparation and representation at interagency and international meetings and negotiations on bilateral and regional economic issues;

c. Monitors information on economic and commercial developments and maintains in-depth commercial and economic expertise on individual countries and the region; and

d. Provides geographic supervision of the Foreign Commercial Service country senior officers overseas, and, jointly with the Director General, appraises their performance. The Deputy Assistant Secretary and his/her country offices are the contact point within ITA for FCS overseas posts on country program issues.

SECTION 7. ASSISTANT SECRETARY FOR TRADE ADMINISTRATION.

The Assistant Secretary for Trade Administration assists and advises on the development of policies pertaining to, and the implementation of, Departmental programs dealing with import and export administration

issues, including industrial mobilization and foreign boycotts; exercises the functions of the "Secretary" and "administering authority" of U.S. antidumping and countervailing duty laws within the meaning of Title VII of the Tariff Act of 1930, as amended. The Assistant Secretary carries out these functions through:

.01 The Deputy Assistant Secretary for Import Administration who:

a. Coordinates the formulation and implementation of U.S. antidumping and countervailing duty policies and programs, ensuring that actions taken are consistent with overall U.S. trade policy;

b. Coordinates the development of Departmental positions with regard to specific antidumping and countervailing duty cases and general antidumping and countervailing duty issues which are to be discussed in domestic and international forums, such as meetings of the interagency Trade Policy Committee and the GATT Antidumping and Countervailing Duty Code Committees;

c. Ensures the proper administration of antidumping and countervailing duty laws, including the expeditious conduct of investigations, the administration of antidumping and countervailing duty orders, and the administration of antidumping and countervailing duty suspension agreements;

d. Conducts, as directed by the Assistant Secretary for Trade Administration, negotiations with foreign manufacturers or governments to suspend antidumping or countervailing duty investigations, except where the U.S. Trade Representative elects to lead U.S. negotiating teams; and

e. Administers Departmental programs relating to foreign-trade zones, allocation of watch quotas, duty-free entry of scientific instruments, and importation of foreign excess property.

.02 The Deputy Assistant Secretary for Export Administration who:

a. Carries out the Department's responsibilities for regulating exports of U.S. goods and technology for purposes of national security, foreign policy, and short supply;

b. Provides staff support for the Export Administration Review Board, the Advisory Committee on Export Policy, and the Subcommittee of the Advisory Committee on Export Policy (Sub-ACEP);

c. Coordinates and conducts the Department's activities regarding industrial mobilization for national defense, including priorities and allocations, industrial resources, and emergency preparedness programs;

d. Investigates and determines if imports threaten to impair the national security, and, if appropriate, recommends remedial action through the Under Secretary and the Secretary to the President;

e. Carries out, in consultation with the Departments' General Counsel, a compliance program to enforce the Export Administration regulations relating to exports of U.S. goods and technology for purposes of national security, foreign policy and short supply; and

f. Administers programs concerning foreign boycotts against countries friendly to the United States, and develops and coordinates measures for opposing such boycotts.

SECTION 8. ASSISTANT SECRETARY FOR TRADE DEVELOPMENT.

The Assistant Secretary for Trade Development (the "Assistant Secretary") advises on trade and investment policies pertaining to U.S. business sectors and carries out programs to promote world trade and to strengthen the international trade and investment position of the U.S. In carrying out these functions, the Assistant Secretary directs the Department's programs for participation in trade fairs, trade missions and other overseas trade promotion events; conducts programs within the U.S. to expand the export-consciousness of American firms and to facilitate entry into international trade; implements and monitors the results of the Multilateral Trade Negotiations (MTN) and provides advice and assistance to U.S. businesses on rights and opportunities resulting from the MTN; carries out special industry activities to promote exports of major projects and high technology products; examines and develops trade policy recommendations which are industry sector or product-specific in nature (with appropriate consultation with units of International Economic Policy, where significant country or regional issues are involved); obtains private sector views with respect to international economic and commercial policy issues; conducts programs aimed at assistance to industries faced with import competition; and manages ITA's trade-related information and research gathering and dissemination functions. The Assistant Secretary advises Departmental and ITA officials on policies and programs relating to these functions and serves as the National Export Expansion Coordinator and coordinator of the National Coal Export Policy. The Assistant Secretary carries out these functions through:

.01 The Deputy Assistant Secretary for Trade Development who serves as the principal deputy to the Assistant Secretary and assumes the duties of of the Assistant Secretary in the latter's absence.

.02 The Deputy Assistant Secretary for Export Development who:

a. Develops domestic and overseas programs designed to stimulate the expansion of U.S. exports, including activities to foster an export consciousness among U.S. manufacturing and service industries and evaluates the effectiveness of these programs;

b. Directs the delivery of export development programs which are carried out by the District Offices of the U.S. Commercial Service;

c. Provides Departmental recognition of domestic and foreign trade promotion events;

d. Directs overseas event scheduling and staffing, including exhibitor recruitment, resource management and staging of the Department's trade promotion events;

e. Develops programs to improve the access of U.S. products and services to foreign markets, including identifying barriers and surveying U.S. laws and practices affecting international trade; and

f. Carries out the provisions of P.L. 91-269 related to Federal recognition and participation in international expositions held in the United States.

.03 The Deputy Assistant Secretary for Industry Projects who:

a. Examines and develops trade policy recommendations which are industry sector or product-specific in nature (with appropriate consultation with units of International Economic Policy, where significant country or regional issues are involved); obtains private sector views with respect to international economic and commercial policy issues;

b. Implements, monitors, and participates in international consultation and renegotiation of MTN tariff, non-tariff, and other agreements for non-agricultural industries and services and develops and provides U.S. business with information and assistance on new U.S. rights and opportunities under the MTN codes and other agreements;

c. Represents the Department in international finance and development assistance affairs; provides represenetation on or staff support to Departmental representatives on committees or other groups dealing with export finance, export guarantees, credit insurance, and related issues; and

d. Conducts a program to assist U.S. companies to compete for major infrastructure and industrial systems contracts abroad.

.04 The Deputy Assistant Secretary for Trade Information and Analysis who:

a. Initiates and reviews research studies and forecasts on developments affecting U.S. international trade and competitiveness and manages a program of trade and international economic analyses and statistics for U.S. Government and business;

b. Monitors and analyzes foreign investment in the United States; prepares studies and reports on its economic effects and represents the Department on committees or groups concerned with these issues; and

c. Develops and operates export information programs, including an automated trade policy data and information system, and an automated export information transfer system.

.05 The Deputy Assistant Secretary for Textiles and Apparel who:

a. Assists and advises Departmental officials on the economic condition of the U.S. textile and apparel industries, domestically and internationally; negotiates and monitors bilateral textile and apparel restraint agreements in conjunction with the United States Trade Representative, the Departments of State, Treasury and Labor, consulting and coordinating with the relevant International Economic Policy regional Deputy Assistant Secretary; monitors imports from controlled agreement countries and uncontrolled countries;

b. Manages operation of the Committee for the Implementation of Textile Agreements (CITA), and advisory committees related to the textile and apparel program; prepares economic data and performs analyses of conditions in the domestic textile and apparel markets, including the impact of imports; promotes the expansion of exports of textiles and apparel, and in conjunction with the United States Trade Representative and other organizations, reduction of non-tariff barriers; and

c. Prepares statistical data on imports; classifies problems arising under agreements, and trains foreign officials in U.S. classification procedures; and provides structural assistance to the industry on technology, research and development, and management training.

.06 The Deputy Assistant Secretary for Trade Adjustment Assistance who develops policies and provides guidance to implement the trade adjustment assistance program; certifies firms and communities as eligible to apply for trade adjustment assistance; provides trade adjustment technical and financial assistance to certified firms; provides trade adjustment assistance to trade-impacted industries and communities; develops a systematic adjustment assistance monitoring program to assure that firms comply with the terms of their adjustment proposals and any agreements pertaining to the adjustment assistance received; establishes procedures

for dealing with delinquent firms, including innovative approaches to maintain the viability of firms; evaluates the performance of firms which have received adjustment assistance and establishes correlations among their success or failure, their adjustment assistance proposals, and performance of the Trade Adjustment Assistance Centers (TAACs); coordinates the trade adjustment assistance program with other Federal agencies, including the Department of Labor, the International Trade Commission, and the Office of the United States Trade Representative (USTR); and provides representation for the Commerce Labor Adjustment Action Committee (CIAAC).

SECTION 9. EFFECT ON OTHER ORDERS.

This Order supersedes Department Organization Order 40-1, dated January 2, 1980, as amended.

Approved:

Under Secretary for International Trade

Assistant Secretary for Administration

EXHIBIT 2

U.S. Commercial Service District Offices and Trade Specialists

DISTRICT OFFICES

Albuquerque
Anchorage
Atlanta
Baltimore
Birmingham
Boston
Buffalo
Charleston, W. Va.
Cheyenne
Chicago
Cincinnati
Cleveland
Columbia
Dallas
Denver
Des Moines
Detroit
Greensboro
Hartford
Honolulu
Houston
Indianapolis
Jackson, Miss
Kansas City, Mo
Little Rock
Los Angeles
Louisville
Memphis
Miami
Milwaukee
Minneapolis
Newark
New Orleans
New York City
Omaha
Philadelphia
Phoenix
Pittsburgh
Portland, Oregon
Reno
Richmond
St. Louis
Salt Lake City
San Francisco
San Juan
Savannah
Seattle

TRADE SPECIALISTS

Augusta, Me.
Charleston, S.C.
Clearwater
Fairfax, Va.
Grand Rapids
Greenville, S.C.
Jacksonville, Florida
Nashville
Oklahoma City
Providence
San Diego
Tallahasse

Export Licensing

GAO testified that Commerce was having difficulty in getting the proper cases to Defense for review and that there was a definite need to streamline the flow of applications within the system and eliminate duplicative review efforts.

Have you instituted any corrective action in these areas?

I noticed in the Export Administration Act that Commerce must make a recommendation on export applications before consulting with Defense or other concerned agencies. Doesn't this requirement unnecessarily delay decisionmaking and result in outstaffing? It seems to me that it would be more practical if Commerce were permitted to forward the more sensitive cases to the concerned agencies at time of receipt, and possibly wait to make a recommendation on only those cases where another reviewing agency recommended the application be denied. Have you given any consideration to suggesting that the law be changed in this regard?

DOC disagrees with Defense's comments as reported by the GAO. GAO's recommendation that the Export Administration Act be amended to give the Department of Defense the responsibility of first review on dual-use license applications, for example, would not be appropriate. Such an action would undermine Congressional intent to maintain a focus of control over technology transfer within the federal government. It could damage the balance we now have between strategic, economic, and policy perspectives while merely shifting the burden of initial technical assessment from one agency to another. The recommendation was driven implicitly by a desire to expedite license processing. However, it is unwarranted on those grounds since we are processing licenses on time. The January 1981 backlog of some 2,000 cases is down to virtually zero today.

Foreign Direct Investment in the United States

In 1980 Commerce agreed with a GAO recommendation in its report on foreign direct investment (ID-80-24) that it should develop and issue operational guidance on inward investment that encourages the facilitation of state efforts to attract foreign investment. Specifically GAO recommended that the Secretary of Commerce:

-- *Designate Embassy commercial officers as focal points to support the states overseas promotional efforts;*

-- *Require commercial officers to place more emphasis on developing investment leads and furnishing such leads directly to states that request them;*

-- *Ensure that the Department's facilitative efforts support the needs of Embassy commercial officers, state domestic programs, and foreign visitors who are considering U.S. investments.*

What has Commerce done to implement this recommendation?

We have instructed FCS Officers overseas to support states in all of their promotional efforts, including organizing investment seminars, supporting state-organized trade missions and supplying trade leads to a number of state trade development offices overseas.

Our overseas staff has been placed on alert to be aware of investment leads and to supply that information to appropriate state and Commerce officials.

The Department of Commerce has had a leading federal role in providing facilitative services for many years. The transfer of the Foreign Commercial Service to the Department has improved our ability to provide timely investment leads to state development agencies.

The recent organizational realignment combining the administrative responsibilities for the Foreign Commercial Service and the U.S. Commercial Service will contribute to closer coordination between efforts at the state level, in Washington, and overseas.

How will this realignment affect the role and reporting channels of the Foreign Commercial Service and U.S. Commercial Service?

The Foreign Commercial Service and the U.S. Commercial Service report to the Director General of the Commercial Services. The Director General coordinates the country planning and program functions of the Foreign Commercial Service with the Assistant Secretary for International Economic Policy and with the Assistant Secretary for Trade Development.

Program implementation is monitored and coordinated by a Director of Operations for each of the two services who report to the Director General.

The role of the Commercial Services is enhanced by the development and implementation of a coordinated personnel and post goal-setting program system which integrates the activities of the two services with each other and the rest of the International Trade Administration.

What will be the role of the Director General of the Foreign and U.S. Commercial Service?

The Director General shall:

(1) be the visible spokesperson for the Commercial Services, notably with business, particularly small- and medium-sized, and other external constituencies;

(2) establish liaison with business leaders, chambers of commerce, trade associations, other public and private organizations, the State Department and other Federal agencies to encourage productive interchange of ideas and viewpoints between these entities and the Department;

(3) direct the effective operation and administration of a system of Foreign Service Posts and U.S. Commercial Service District Offices located in major commercial and industrial centers throughout the world. These facilities shall be responsible for assisting American business through the provisions of counseling and technical assistance, major project development, representation with foreign governments and other appropriate program officials and individual representation in host countries for American manufacturers and potential business prospects;

(4) develop and manage the goal-setting and evaluation process which integrates the activities of the Commercial Services in coordination with the relevant ITA deputy assistant secretaries for country and trade development programs;

(5) direct the planning for program implementation, resource services and financial management, program analysis and policy review;

(6) provide for commercial intelligence requirements; and

(7) insure the development and implementation of ongoing worldwide recruitment activities that are designed to attract the highest calibre and most qualified individuals from the public and private sectors to serve in the worldwide Commercial Services.

Will this realignment provide an opportunity to move personnel between the Foreign and U.S. Commercial Services?

The realignment of the two services has given us an excellent opportunity to have FCS staff move into USCS District Offices and vice-versa. In fact our current Commercial Counselor in Tokyo will be our next Director of the District Office in Chicago and the Chicago District Office Director has been assigned to London as Commercial Counselor. We will be making similar career development exchange assignments for both FCS and USCS officers. Opportunities also will be available in ITA headquarters policy and program areas, especially in the country-focused IEP.

Elimination of Trade Adjustment Assistance Program

Your budget justification states:

"...only about 65 firms per year have benefited from TAA loans and loan guarantees of which a significant portion have failed to adjust to import competition."

Please provide for the record: 1) the names and locations of all firms which received assistance under this program, 2) the types and amounts of assistance (i.e., grants, loans, loan guarantees, and technical assistance) received by these firms, and 3) the current status of these firms, identifying specifically those firms which have adjusted to import competition.

The following tables list 300 firms, including names, locations and product lines, which have received a total of $329.9 million dollars in financial assistance under the Trade Act of 1974, as amended. Of this amount $189.0 million were direct loans and

$140.9 million were guaranteed loans. Of the 300 firms receiving financial assistance, 139 of them, or 49 percent of the total are current in their payments, and we consider them as having adjusted to import competition. Also attached is a summary by fiscal year analyzing the status of the approved program funds.

Since inception of this program approximately 2,544 firms have received various forms of technical assistance totalling $71.4 million, of which $45.6 million were to firms and $25.8 were to industries. We are unable to supply individual firm-by-firm information on the above technical assistance due to the fact that complete records have not been centralized.

Status of

TRADE ADJUSTMENT ASSISTANCE

LOANS and LOAN GUARANTEES

by Number of Firms

March 1, 1982

Firms with Loans and/or Loan Guarantees:

Approved	300		
Disbursed	282	100%	
Current	139	49%)	
		)	50%
Paid in Full	3	1%)	
Past Due (one or more months)	47	17%	
In Liquidation	58	21%)	
		)	33%
Liquidated	35	12%)	

FY	NAME OF FIRM RECEIVING ASSIST.	ST	PRODUCT LINE
76	Deansgate, Inc.	LA	Apparel
76	Glamorise Foundations	NY	Apparel
76	Green Ball Bearing	OH	Ball Bearings
76	Sabicca of California	CA	Footwear
76	Algy Shoe Company	MA	Footwear
76	Town & Country	MO	Footwear
76	Dynamics Industries	NY	Power Conv. Prod
76	Swenson Granite	NH	Stone Quarry
76	Vermont Marble Company	VT	Stone, Marble
TQ	Brentwood Sportswear, Inc.	PA	Apparel
TQ	Dame Belt Company, Inc.	NY	Handbag
77	Andrew Pallack & Co., Inc.	NY	Apparel
77	Dell Knitwear	NY	Apparel
77	Howard Stores	NY	Apparel
77	Peg Sportswear, Inc.	NY	Apparel
77	Haloo Industries	CA	Eyeglass Frames
77	Dryden Farms, Inc.	MI	Food, Mushroom
77	Dixie Shoe Corporation	AL	Footwear
77	Rubber Corp. of Arkansas	AR	Footwear
77	Capitol Footwear Corp.	MA	Footwear
77	Feather Moos Caribe Corp.	NY	Footwear
77	Excellent Bag Corporation	NY	Handbag
77	Lewis Purses, Inc.	NY	Handbag
77	Penny Bag Company	NY	Handbag
77	Regal & Wade Mfg.	NY	Photo Albums
77	B & C West, Ltd.	CA	Plant Hangers
77	Bernard Screen Printing	NY	Textile
77	Cort Industries	NY	Zippers
78	Dawson Industries	GA	Apparel

FY	NAME OF FIRM RECEIVING ASSIST.	ST	PRODUCT LINE
78	Abe Levine Knitting Mills, Inc.	NY	Apparel
78	Breezy Bay, Inc.	NY	Apparel
78	Division Garment	NY	Apparel
78	Hy-Grade Sportswear	NY	Apparel
78	P L P Sportswear, Inc.	NY	Apparel
78	Pat Barrie, Ltd.	NY	Apparel
78	Robert Reis & Company	NY	Apparel
78	Tarra Hall Clothers, Inc.	NY	Apparel
78	Trifine Trousers Company, Inc.	NY	Apparel
78	J.B.C. Company of Madera	PA	Apparel
78	M T G Industries, Inc.	PA	Apparel
78	Soowal Knitting Mills, Inc.	PA	Apparel
78	Huntley of York, Ltd.	SC	Apparel
78	Accessories by Pearl, Inc.	NY	Apparel, Belts
78	Mayer D. Mehrman & Son	PA	Apparel, M
78	Dorn Shirt Company	PA	Apparel, M/W
78	Wells-Gardner Electronics	IL	Elec. Products
78	Smithfield Sugar Cooperative	LA	Food, Sugar
78	Joy Footwear Corpration	FL	Footwear
78	Patinos, Incorporated	FL	Footwear
78	A. Jacbobs & Sons Company, Inc.	MA	Footwear
78	Bridgewater Shoe Corporation	MA	Footwear
78	Brovoo Products	MA	Footwear
78	Mrs. Day's Ideal Baby Shoes	MA	Footwear
78	Crest Shoe Company	ME	Footwear
78	Viner Brothers	ME	Footwear
78	Tiara Footwear, Inc.	NH	Footwear

FY	NAME OF FIRM RECEIVING ASSIST.	ST	PRODUCT LINE
78	Air Baby, Inc.	NJ	Footwear
78	Favorite Footwear, Inc.	NY	Footwear
78	Footlight Parade, Inc.	NY	Footwear
78	Sansue Shoe Corporation	NY	Footwear
78	Cobblers, Incorporated	PA	Footwear
78	Dauphin Shoes	PA	Footwear
78	Edru Shoe Company, Inc.	PA	Footwear
78	Haddad Shoe Corporation	PA	Footwear
78	J. S. Zulick Co., Inc.	PA	Footwear
78	Muskin Shoe Co. (The)	PA	Footwear
78	Sham-O-Kin Shoe Corp.	PA	Footwear
78	Linda Joe Shoe Company	TX	Footwear
78	J. B. Lion Corporation	CT	Handbag
78	Hygrade Handbags	NJ	Handbag
78	Best Craft Handbag Corp.	NY	Handbag
78	Carnivale Bag Co., Inc.	NY	Handbag
78	Classy Leather Goods Corp.	NY	Handbag
78	Fancy Industries, Inc.	NY	Handbag
78	Hilf Bag Company, Inc.	NY	Handbag
78	Lou Ran Handbags, Inc.	NY	Handbag
78	Perrone Industries, Inc.	NY	Handbag
78	Nu-Craft Manufacturing Corp.	NJ	Handbag, Frames
78	Nelson Brothers Metal	NY	Handbag, Frames
78	Midwest Handbag Company	MO	Handbags
78	Morris White Fashions	NY	Handbags
78	B & C West, Ltd.	CA	Hydrogarden
78	Joseph J. Mazer	NY	Jewelry, Cost.

FY	NAME OF FIRM RECEIVING ASSIST.	ST	PRODUCT LINE
78	Kreisler Mfg. Corp.	FL	Jewelry, Watchbd
78	Carter Leather Goods	NY	Leather Goods
78	Reliable Machine Works, Inc.	NY	Machinery
78	Tara Knitting Mills, Inc.	NY	Machinery
78	Dynamic Instruments	NY	Power Conv.
78	Tempo Sound Equipment Co. Inc.	NY	Speakers
78	Time Saver Tackle	FL	Tackle Prod.
78	Hull Dye & Print Works	CT	Textile
78	Elfskin Corporation	MA	Textile
78	J. Bass & Company, Inc.	NY	Textile
78	Jacoby-Bender, Inc.	NY	Textile
78	Atlanta Umbrella Co., Inc.	GA	Umbrellas
78	Latin Watch Case Company, Inc.	NY	Watch Cases
78	E. H. Edwards Co.	CA	Wire Rope
79	Antenna Incorporated	OH	Antennas
79	Action Wear, Inc.	CO	Apparel
79	Snowbird, Incorporated	CO	Apparel
79	Rosevelt Mills, Inc.	CT	Apparel
79	Peachtree Jeans	GA	Apparel
79	Revere Sportswear	IL	Apparel
79	Great Six Company (The)	MN	Apparel
79	Curlee Clothing Company	MO	Apparel
79	Danny Dare Incorporated	MO	Apparel
79	Highlander Sportswear, Inc.	NJ	Apparel
79	William B. Kessler, Inc.	NJ	Apparel
79	Adria Industries Corp.	NY	Apparel
79	Biflex International	NY	Apparel

FY	NAME OF FIRM RECEIVING ASSIST.	ST	PRODUCT LINE
79	Bobbie Ellen	NY	Apparel
79	Clemette, Inc.	NY	Apparel
79	Knitcapers, Inc.	NY	Apparel
79	Milt Posner Fur Corporation	NY	Apparel
79	L. N. Gross Company	OH	Apparel
79	Bagetelle International	PA	Apparel
79	Goodimade Mfg.	PA	Apparel
79	Infanta Knitting Mills	PA	Apparel
79	Peters Sportswear	PA	Apparel
79	Gaylor Mfg. Co.	VA	Apparel
79	Saywood Sportswear	NY	Apparel, W
79	Robert Lewis, Inc.	NJ	Apparel, Leather
79	H. Hertzberg & Sons	NY	Brushes
79	Acoustic Fiber Sound System	IN	Car Stero Spk.
79	Vogue Industries, Inc.	MA	Cartridge Mfg.
79	Mildrum Mfg. Co.	CT	Fishing Tckl.
79	Pinellas Seafood	FL	Food Processor
79	Helvetia Sugar Corporation	LA	Food, Sugar
79	Rio Grande Valley Sugar	TX	Food, Sugar
79	Osceola Shoe Company, Inc.	AR	Footwear
79	Kraus Originals, Inc.	CA	Footwear
79	Sacks Footwear Corporation	CA	Footwear
79	Miami Footwear	FL	Footwear
79	Patinos, Inc.	FL	Footwear
79	Manistee, Incorporated	MA	Footwear
79	Marlboro Footwear Corporation	MA	Footwear
79	Selvin Shoe Company(The)	MD	Footwear

FY	NAME OF FIRM RECEIVING ASSIST.	ST	PRODUCT LINE
79	Crest Shoe Company	ME	Footwear
79	Viner Brothers, Inc.	ME	Footwear
79	M. T. Shaw, Inc.	MI	Footwear
79	Johansen Brothers Shoe	MO	Footwear
79	Welloo Enterprises, Inc.	NC	Footwear
79	Mighty Atlas Shoe Co.	NH	Footwear
79	Shoes by Raphael	NY	Footwear
79	Stein & Kolti Enterprises	NY	Footwear
79	Thom Brown Shoes, Inc.	NY	Footwear
79	Muskin Shoe Company (The)	PA	Footwear
79	Quaker Shoe Corporation	PA	Footwear
79	Condor Footwear	VA	Footwear
79	Delaware Alloy Forge Company	PA	Forgings
79	Char-Len Handbag	CT	Handbag
79	B. Diamond & Sons, Inc.	NY	Handbag
79	Bell Handbags	NY	Handbag
79	Carnivale Bag Company	NY	Handbag
79	Jolie Handbag	NY	Handbag
79	Kadin Brothers, Inc.	NY	Handbag
79	Victoria Needlework	NY	Handbag
79	Morris White Fashions	PA	Handbag
79	Handi Bag	NY	Handbag, Vinyl
79	Markay Bags, Inc.	NY	Handbags
79	Ronson Corporation	NJ	Industrial Gds
79	Crislu Corporation	CA	Jewelry
79	Adrain Pearl Mfg.	NY	Jewelry
79	Middletown Leather	NJ	Leather

FY	NAME OF FIRM RECEIVING ASSIST.	ST	PRODUCT LINE
79	Mayer Rothkopf Industries, Inc	SC	Machinery, Text
79	Abbott Machine Company	NH	Machinery, Text
79	Microstar, Inc.	NY	Plastic Mold.
79	Sentry Manufacturing Company	OK	Quartz Tech.
79	Washington Stove Works	WA	Stoves, Wood
79	Plesco Products	MA	Surgical Devices
79	Tensor Corporation	NY	Tennis Rackets
79	Eastern Laminating Corp.	NJ	Textile
79	Korelle Industries	NJ	Textile
79	Aerfab Corpration	NY	Textile
79	Knitcrest Fabrics	NY	Textile
79	Gold Mills Incorporated	PA	Textile
79	Peerless Umbrella	NY	Umbrella
79	Leather Comfort	ME	Upholstry, Leath.
79	Paragon Wire & Cable Corp.	NY	Wire Mfg.
80	Diane Knitfabrics, Inc.	CT	Apparel
80	Manchester Modes, Inc.	CT	Apparel
80	Suntogs of Miami	FL	Apparel
80	Malden Knitting Mills	MA	Apparel
80	Crewco, Incorporated	NC	Apparel
80	Pandora Industries, Inc.	NH	Apparel
80	Crawfton Coat Company, Inc.	NJ	Apparel
80	Washington Knitting Mills	NJ	Apparel
80	Allison Court Enterpirses	NY	Apparel
80	Cavalier Clothes, Inc.	NY	Apparel
80	Corporate Knitting, Inc.	NY	Apparel
80	Top Form Mills, Inc.	NY	Apparel

FY	NAME OF FIRM RECEIVING ASSIST.	ST	PRODUCT LINE
80	Atlas Company (The)	PA	Apparel
80	Lesco Sportswear Company	PA	Apparel
80	London Knitting Company	PA	Apparel
80	Farah Mfg. Co., Inc.	TX	Apparel
80	Hortex, Incorporated	TX	Apparel
80	Imperial Reading	VA	Apparel
80	Little World, Inc.	NJ	Apparel, Child
80	American Pillow Company	MA	Apparel, Down
80	Stephanie Fashions	NY	Apparel, Fur
80	Richmond Glove Corporation	IN	Apparel, Gloves
80	Acme Leather Sportswear	NJ	Apparel, Leath.
80	Leather Classics, Inc.	TN	Apparel, Leather
80	Auerback & Company	CA	Apparel, Men
80	D. B. Rosenblatt, Inc.	MN	Apparel, Men
80	H. Freeman & Sons, Inc.	PA	Apparel, Men
80	Max Golden & Sons	PA	Apparel, Mens
80	Alps Sportswear	MA	Apparel, Sports
80	Oldani Enterprises	MO	Apparel, Women
80	Sally Gee, Incorporated	NJ	Apparel, Women
80	Custom Casuals, Inc.	NY	Apparel, Women
80	Wells Gardner	IL	Assemble TV's
80	Hahn, Inc.	IN	Chemicals, Spray
80	Salton, Inc.	NY	Electric Prod.
80	Amplifone Corporation	TX	Electronic, TV
80	Lamiglas, Inc.	WA	Fishing Rods
80	Osceolo Shoe Company	AR	Footwear
80	California Debs Inc.	CA	Footwear

FY	NAME OF FIRM RECEIVING ASSIST.	ST	PRODUCT LINE
80	Miami Footwear	FL	Footwear
80	Lawrence Maid Footwear	MA	Footwear
80	HMS Sportswear	NH	Footwear
80	Frier Industries, Inc.	NJ	Footwear
80	Q-T Shoe Mfg., Company	NJ	Footwear
80	Fleet-Air Corporation	PA	Footwear, Child
80	Butler Furniture	KY	Furniture
80	Aly Handbags, Inc.	FL	Handbag
80	Berger Brothers Leather Goods	NY	Handbag
80	Honey Bag Company, Inc.	NY	Handbag
80	M & M Jewelry	NY	Jewelry
80	Fearing Mfg. Co., Inc.	MN	Livestock Tags
80	Pinkertron Foundry	CA	Metal Castings
80	Multivox Corporation of Amer.	NY	Musical Inst.
80	Apeco Corporation	IL	Photo Copying
80	Bomar Crystal Company, Inc.	NJ	Radio Crystals
80	Fairfax Mfg. Company	MO	Smoking Access.
80	Johnson Steel & Wire Corp.	NJ	Steel Wire
80	Smithfield Sugar Corporation	TX	Sugar Process.
80	May Knitting Company	NY	Sweater Jobber
80	Park Silk Company, Inc.	NY	Textile
80	Allen Knitting Mills, Inc.	NC	Textile Dyeing
80	Print Fashions, Inc.	PA	Textile Print.
80	Methuen International	MA	Textile Weaving
80	Steridyne Corporation	FL	Thermometer Sth
80	Wilson-Tek Corp.	IN	Tools
80	Shindana Toys, Inc.	CA	Toys

FY	NAME OF FIRM RECEIVING ASSIST.	ST	PRODUCT LINE
80	Arotex Mills Incorporated	PA	Yarn Mfg.
81	California Infanteen Togs	CA	Apparel
81	Pacific Ascente	CA	Apparel
81	Revere Sportswear Company	IL	Apparel
81	Ralph Edwards Sportswear, Inc.	MO	Apparel
81	Rosewin Coats & Susids.	MO	Apparel
81	Triple H. Apparel	NC	Apparel
81	N & R Fashions, Inc.	NJ	Apparel
81	Kelly Slax Incorprated	NY	Apparel
81	Utica Duxbak	NY	Apparel
81	Wexler Knitting Mills	PA	Apparel
81	Wyoming Valley Garment	PA	Apparel
81	Maguire Brothers Brush Co.	NY	Brushes
81	Bridgeport Rolling Milling	CT	Copper Prod.
81	Niacet Corporation	NY	Chemical
81	Jerome Industries	NJ	Elec. Converters
81	Draco Laboratories, Inc.	WI	Electronic Eq.
81	Superex Electronics Corp.	NY	Electronic Mfg.
81	Transitron Electronics	MA	Electronics
81	Chronar Corporation	NJ	Electronics
81	Nachman Industries, Inc.	PA	Embroidery
81	Ithaca Gun Company	NY	Fire Arms
81	Weber Tackle Company	WI	Fishing Equip
81	Fass Brothers, Inc.	VA	Food, Fish
81	Ostrom Company	WA	Food, Mushroom
81	Frontier Footwear Corporation	AZ	Footwear
81	Compatibles, Inc.	CA	Footwear

FY	NAME OF FIRM RECEIVING ASSIST.	ST	PRODUCT LINE
81	Kessler Shoe Mfg. Co. Inc.	MD	Footwear
81	Bertlyn Industries, Inc.	NY	Footwear
81	Blair Footwear	PA	Footwear
81	U. S. Forge Inc.	MI	Forge Plant
81	Leird Church Furniture	AR	Furniture
81	Menser Industries, Inc.	IN	Glasper
81	Pivot Metal Works	NY	Handbag
81	Saw Mill River Industries,	NY	Housewares
81	Messinger, Inc.	CA	Jewelry
81	Maui Divers, Inc.	HI	Jewelry
81	Custom Time Corporation	PA	Jewelry, Watch
81	Keystone Metal Mold	MI	Molding, Auto
81	Sunweld Fitting	CA	Pipe Fittings
81	Melissa & Me, Inc.	NJ	Plastic Cont.
81	Self-Powered Lighting	NY	Sign Mfg.
81	Synestructics, Inc.	CA	Space Frames
81	ATP Processors	NJ	Textile
81	BBG Textile Corporation	PA	Textile
81	Mark Industries	IL	Tool & Die
81	Benchmark Crafters, Inc.	MN	Toys
81	Colorguard Corporation	NJ	Tube & Pipe
81	Brotherhood Corporation	NY	Winery
81	John C. Kohaut, Inc.	NJ	Wood Prod.
82	Irwill Knitwear Corporation	NY	Apparel
82	York Capacitor Corporation	VT	Elec. Capacitors
82	Haywood-Schuster, Inc.	MA	Textile
82	Eastland Woolen Mills	ME	Textile

STATUS OF THE TRADE ADJUSTMENT ASSISTANCE PROGRAM BY FISCAL YEAR OF APPROVAL
AS OF DECEMBER 31, 1981

(Dollars in millions)

FISCAL YEAR	TOTAL DOLLARS APPROVED	TOTAL DOLLARS DISBURSED	PRESENT BALANCE OUTSTANDING	DOLLARS DISBURSED CURRENT	DOLLARS REPAID ON DISBURSEMENTS	DOLLARS DISBURSED PAST DUE	DOLLARS DISBURSED IN LIQUIDATION	DOLLARS DISBURSED CHARGED OFF
76 & TQ	$13.4	$12.5	$5.9	$3.5	$4.9	$2.5	---	$1.6
77	17.8	15.8	6.9	2.6	1.8	1.4	2.9	7.1
78	74.5	62.0	35.7	7.9	10.0	7.7	20.2	16.3
79	4.2	85.6	75.1	45.3	2.9	7.2	22.6	7.6
80	73.1	65.2	64.7	37.2	.5	10.7	16.8	---
81	49.8	35.2	35.2	30.1	.03	5.1	---	---
82	7.1	---	---	---	---	---	---	---
TOTAL	$329.9	$276.3	$223.5	$126.6	$20.1	$34.6	$62.5	$32.6
% OF DISBURSEMENT	45.9%	7.3%	12.5%	22.6%	11.8%			

Your budget justification indicates that abolishment of the trade adjustment assistance would cause a reduction of 28 positions and $30,094,000. Does the dollar estimate represent realizable budgeting savings? If not, please provide detailed estimates, by activity, of savings which would be realized if this program is abolished.

The $30,094,000 does represent realizable budget savings of $2,000,000 in salaries and expenses, $13,094,000 in technical assistance, and $15,000,000 in direct loans and reserves to support guaranteed loans.

On page ITA-3, it is stated that "as of June 30, 1981, 30 percent of the TAA portfolio was delinquent in meeting payments and 33 percent was in the process of liquidation." What are the current rates of delinquency and liquidations? What are the amounts of loan and loan guarantees involved in these categories? From the start of this program, what have been the total amounts of collectible loans and loan guarantees?

Loans and loan guarantees that are currently delinquent one month or more amount to $34.5 million or 12.5 percent of the total dollars disbursed.

Loans and loan guarantees which are in liquidation or charged off total to $95.1 million or 34.5 percent of the total dollars disbursed.

The total amount of loans and loan guarantees approved under this program is $329.9 for 300 firms.

Foreign Commercial Operations

ITA is requesting $300,000 to establish an overseas business facilitation service for visiting representatives of small and medium U.S. businesses. This request is for the one-time costs of configuring and equipping space at selected overseas posts. Once established, it is expected that this service will be self-financed by user charges.

Did ITA perform a survey or feasibility study to determine the need for an overseas business facilitation service?

ITA did not conduct a formal feasibility study but acted after numerous requests from the business community for this type of facility. Currently our overseas staff is besieged with requests for translation, typing, and copying services especially in developing countries where business conditions are difficult.

What criteria will be used to select the posts where this service will be provided?

We intend to locate these facilities in posts where there is a high volume of business visitors, coupled with a lack of comparable commercial facilities. Examples of such countries are Nigeria, Saudi Arabia, and Egypt.

Has any work been done on developing schedules of fees to be charged for specific services?

Fees for these services will vary from country to country. We will recover the cost for these services; since secretarial and translation services have varying worldwide costs, we plan to establish our fees accordingly.

Will the space and services provided be in the confines of Department of State managed space or in Commerce-leased space? How will overhead be allocated to users fees?

We expect the space to be located at FCS facilities abroad. We do not expect a significant amount of overhead to be involved; however, should space rental, utilities, etc., become a significant factor, we will incorporate them in the user fee.

ITA is requesting $592,000 for the relocation of commercial facilities at seven posts. (Page ITA-30)

How much of the $592,000 requested for the relocation of specific overseas commercial facilities will be one-time costs of configuring and equipping new space and how much represents recurring lease costs? Please provide this breakout by post.

The figure shown on ITA-30 represents only the one-time cost to relocate, configure, and equip the new space facilities in the seven locations. None of the $592,000 requested represents recurring lease costs.

On page ITA-31, 16 positions and $970,000 are requested to increase staffing in 10 countries. Details are given by country but not by post within each country and not split by FCS or foreign service national positions.

For the 16 new overseas positions requested on page ITA-31, please provide details on the individual posts where these positions would be established and indicate whether these would be FCS or FSN positions. Are State Department employees currently responsible for the commercial activities at these posts? Are any of these new positions requested because the State Department is either eliminating positions or commercial activities of its employees at these posts?

Country/Post	FCSO	FSN
CANADA		
Ottawa	1	0
Toronto	0	1
Vancouver	1	0
VENEZUELA		
Caracas	1	1
PHILIPPINES		
Manila	1	1
ALGERIA		
Algiers	1	0
MEXICO		
Monterrey	1	1
ISRAEL		
Tel Aviv	1	0

ARGENTINA		
Buenos Aires	1	0
SAUDI ARABIA		
Dhahran	1	0
NETHERLANDS		
The Hague	1	0
BRAZIL		
Sao Paulo	1	0
Porto Alegre	1	0
TOTAL	12	4

State Department employees are currently responsible for the commercial activities in Monterrey, Vancouver and Dhahran. All of the positions requested are primarily intended to add to our staffs in those markets with significant growth potential for U.S. exports. However, in Mexico, State is attempting to eliminate five positions in the Consulates which have significant commercial content. We are resisting State's efforts to do so.

Concerning the details of the requested positions shown on page ITA-31, why are the requested Foreign Service Officer positions so relatively high-graded, particularly when compared to the requested GS positions?

Many of the GS positions are headquarters support staff and not at the management level. The Foreign Service Officer positions are supervisory positions and in some posts the senior commercial officer. Also, one of the FCS's recruitment goals is to hire individuals from private industry. It is difficult to recruit individuals with required qualifications at less than the FS-3 level. Most of the mid-level and lower-graded jobs in the FCS are in any case filled by FSNs rather than incur the tremendous expense of recruiting and transporting an American officer with family and belongings to an overseas post.

What will be the responsibilities of the FS-01 positions of the Inspection Coordinator? Who currently inspects FCS' headquarters and overseas operations? Isn't this a responsibility of the Department's Inspector General?

The responsibility of the FS-01 Inspection Coordinator is to work closely with the Inspector General's office to see that posts follow up on suggestions and criticisms. The Department's Inspector General currently inspects FCS' headquarters and overseas operations.

Questions Submitted by Senator Ernest F. Hollings

Steel Program

The trigger price mechanism was suspended on January 11. Does the Department of Commerce still collect the Steel invoices that were required under the TPM?

Yes, the Department of Commerce still collects the steel invoices that were required under the TPM prior to its suspension.

Has the Commerce Department kept the TPM structure intact so it could be reinstated if the steel cases were settled?

Yes, the Department of Commerce has kept the TPM superstructure in place. However most TPM personnel are now working on the recently filed steel cases.

Do you see any possibility of early settlement in the steel cases in order to avoid the long-term injury while waiting for the cases to be determined?

At this time we do not believe that an early settlement of the steel cases is likely. We intend to conclude our investigations in accordance with applicable law. Of course, applicable law does provide the possibility that suspension agreements could be concluded during the investigations.

Do you have enough manpower to handle the steel cases which were recently filed?

Yes, we believe we have adequate staff for the present. However, this view would require re-evaluation if significant new cases were to be filed.

U.S. Travel and Tourism Administration

STATEMENT OF PETER McCOY, UNDER SECRETARY FOR TOURISM

ACCOMPANIED BY:

JOHN SNYDER, DEPUTY UNDER SECRETARY FOR TOURISM
JAMES WILLIAMS, ACTING DIRECTOR, OFFICE OF MANAGEMENT AND ADMINISTRATION
ARLENE TRIPLETT, ASSISTANT SECRETARY FOR ADMINISTRATION
NANCY A. RICHARDS, DIRECTOR, OFFICE OF BUDGET

PREPARED STATEMENT

Senator Weicker. Our next presentation is by the U.S. Travel and Tourism Administration. The amount requested is $5,033,000, a decrease of $2,982,000 from the 1983 base. The request is for 65 permanent positions and reflects a decrease of 33.8 percent in funds and 5 permanent positions from the 1982 level. Direct funding will be sought from the private sector to cover the cost of promoting tourism.

Appearing for Commerce is Peter McCoy. Would you introduce those who accompany you here.

Mr. McCoy. Mr. James Williams, Acting Director of Management and Administration, and Mr. John Snyder, Deputy Under Secretary for Tourism.

Senator Weicker. Your statement in its entirety will be included in the record.

[The statement follows:]

STATEMENT OF PETER McCOY

Mr. Chairman and members of the committee. I am pleased to appear before you to discuss the fiscal year 1983 budget request of the U.S. Travel and Tourism Administration.

We have had to make some hard decisions and difficult choices about the programs of a number of agencies, including the U.S. Travel and Tourism Administration. As a result, I am here today to present a request that the 1983 budget of USTTA be reduced by $2,567,000 from the 1982 appropriated level.

Our request for fiscal year 1983 is $5,033,000 and 65 permanent positions and reflects a decrease of 33.8 percent in funds and 5 permanent positions from the 1982 level.

This proposed funding level is indicative of the administration's view that, while Federal spending must be controlled, there is, nevertheless a legitimate Federal role in tourism. That role, as we see it, is primarily coordinative, advocative, facilitative, and promotional. Accordingly, we are proposing that the principal goals of USTTA in fiscal year 1983 be to: insure that the national tourism interest is fully considered in Federal decisionmaking; coordinate Federal involvement in tourism-related activities; and expand the U.S. share of world international tourism and transportation receipts.

The programs of the U.S. Travel and Tourism Administration can be classified into three program areas: market development, policy, and research.

Market development activities include the operation of offices in six major international markets including Canada, France, Germany, Japan, Mexico, and the United Kingdom. These activities would be confined to maintaining working relationships with the travel trade, providing documents and some technical assistance, and conducting training seminars for foreign sellers of travel to the United States.

The research and data collection activities would include special analyses and responses to public and private sector requests for existing research reports and studies prepared by the agency in prior years.

The proposed level of funding would permit the policy staff to provide professional staff support for the National Tourism Policy Council; develop positions on high-priority tourism issues; and prepare the views of the Department on Legislation, Regulatory Decisions, and Proposed Programs of other governmental agencies which would impact on tourism.

In developing the 1983 budget plan, we have had to assess priorities and direct Federal funding to only the highest of those priorities, that is, maintaining a professional staff to carry out the activities described above. We will not be able to cover all the activities and services we have traditionally conducted. Some of the items or activities that would no longer receive Federal funding in fiscal year 1983 include: travel brochures and documentation; literature distribution and storage services; foreign market media coverage of U.S. destinations; multilingual port receptionist services; and current statistical and market research data.

We are studying alternative sources of funding for some items such as printing and dissemination of brochures about particular geographic regions. Such brochures could be funded on a cooperative basis by regional groupings of States and private sector organizations.

We are looking for new ideas that will generate funds for programs and expand the U.S. presence in the international marketplace. We will present some of these ideas in the marketing plan which we will submit March 22.

Participation of, and cooperation with, other interested sectors can produce a coordinated and efficient approach to tourism development and increased market impact. We are committed to this goal.

BUDGET REQUEST

Senator WEICKER. Go ahead and summarize.

Mr. MCCOY. Thank you, Mr. Chairman.

I am pleased to be here today. Our request for 1983 is $5,033,000 and 65 permanent positions and reflects a decrease of 33.8 percent in funds and 5 permanent positions from the 1982 level.

In developing the 1983 budget plan we have had to assess priorities and direct Federal funding to only the highest of those priorities, that is. maintaining a professional staff to carry out the activities described above. We will not be able to cover all the activities and services we have traditionally conducted. Some of the items or activities that would no longer receive Federal funding in fiscal year 1983 include travel brochures and documentation, literature distribution and storage services, foreign market media coverage of U.S. destinations, multilingual port receptionist services, and current statistical and market research data.

We are studying alternative sources of funding for some items such as printing and dissemination of brochures in particular geographic regions and we are looking for alternate funding to support other services.

Senator WEICKER. Am I correct that the Commerce Committee itself is pushing for higher funding?

Mr. McCoy. I have heard rumors to that effect, Senator.

Senator Weicker. The administration's position is that much of your activities that are normally handled by your agency are to be handled by the private sector.

Mr. McCoy. Yes.

Senator Weicker. Is there any way of measuring the benefit of your activities insofar as the Nation is concerned in monetary terms?

Mr. McCoy. Well, I think that certainly there is. We have 23 million international arrivals annually which equate to about $14 billion in receipts. This, we feel, is certainly an important area, and it does contribute quite substantially to our balance of payments. It is the third largest industry in the United States, one of the top leading employers in many of the States and some 6 percent of the GNP.

ALTERNATIVE SOURCES OF FUNDING

Senator Weicker. What are the alternative sources of funding?

Mr. McCoy. The major emphasis is being placed on promotional literature. Before any of us take a holiday, something triggers our mind to go to a particular location. Our promotional literature, distributed in the field does that, it triggers a thought to enable someone to move further on. We spend close to $1 million annually distributing 3½ million pieces of descriptive literature to encourage business in the United States. That is one element for which I would hope to find funding. It is probably the easiest to encourage alternate funding for because there is a direct correlation of benefit to what an advertiser is getting in the promotion of his business.

The more difficult areas would be those where an advertiser did not have product identification, such as support for the mail house operation and some media services, but we will attempt to go out into the private sector and create them.

Senator Weicker. Dan, you can take over.

COST/BENEFIT RATIO

Senator Inouye. I thank the Chair.

What is the benefit/cost ratio of the expense of the operations?

Mr. McCoy. Senator, I have heard various figures from $18.60 down to a range of about $10. Every dollar we spend would produce revenues somewhere in that range.

Senator Inouye. Would that place you at about the top of the list of the Government agencies?

Mr. McCoy. I would certainly think so as far as generated benefits.

Senator Inouye. If that is the case, why is there this insistence on cutting it down when here we have a gold mine?

Mr. McCoy. Well, I think the administration's feeling was that with the $5 million being requested, additional funds would be able to be raised in the private sector.

Senator Inouye. You are supposed to go out with a tin cup on the street?

Mr. McCoy. I think we can be ingenious in coming up with ways to fund some of the marketing efforts that would not be funded.

Senator Inouye. Won't that place you in a very embarrassing position? Your agency also gives out grants and contract work.

FIELD OPERATIONS

Mr. McCoy. Contrary to popular belief we have not spent any money on grants or advertising either. Basically our service is now confined to field operations overseas and that is, for the most part, an effort toward informing people and educating wholesalers and retailers. Our overseas offices handle about 400,000 inquiries a year as to how to get to destinations and how to transverse our country. Some of the offices handled as high as 4,000 inquiries a day.

Senator Inouye. Are all of our overseas offices operating now?

Mr. McCoy. Yes, sir.

Senator Inouye. Are we closed?

Mr. McCoy. No; we are operating.

Senator Inouye. Do we plan to close them?

Mr. McCoy. I certainly do not plan to. They are working full hours and more.

Senator Inouye. Congress spoke of a new area when creating this new agency. What is the stage of that?

Mr. McCoy. That is in review within the Commerce Department and we will be ready for presentation on that.

Senator Inouye. I have many other questions, Mr. Chairman, I would like to submit for the record if I may.

Senator Weicker. Thank you very much, Senator Inouye.

Thank you very much, Mr. McCoy.

ADDITIONAL COMMITTEE QUESTIONS

Questions from myself and other members of the committee will be submitted to you for response to the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

Responsibilities Imposed by Act But Not Funded

The National Tourism Policy Act, signed by the President this past Fall, imposes a number of new responsibilities on the Secretary of Commerce in the area of tourism. What are the estimated costs of these new responsibilities under the Act? How do you expect to carry out these responsibilities?

The direct costs would amount to about $250,000. Other costs will depend on the level at which the agency responds to the goals and objectives established by the Act.

You indicate on page 10 of your justifications that you are seeking non-Federal funding for five activities which you will be unable to continue due to funding constraints. These are travel brochures, port receptionist program, media contract services, mail house operations and consumer information service. How much funding is needed for each of these activities and what have you done to try to obtain non-Federal financing?

We are studying a number of forms and sources of alternative funding. In the past year, private sector sources pledged $200,000 for projects ranging from map publication to a special insert in the Scandinavian edition of Readers' Digest. The alternative funding sources we are considering -- and the levels of funding required -- are addressed in the marketing plan which was submitted to the Congress on March 19.

How to Measure Effect of Increase in Promotion Activities

The following activities seem to be related to the general direct consumer contact role: travel brochures and documentation, consumer information service and mail house operations. Is there any way to measure how tourism volume will be affected if these activities are not funded?

It would be extremely difficult to measure the direct impact of non-funding on tourist volume. The indirect impact is that the United States would not be able to compete as effectively for international tourism business. A majority of the world's national government tourist offices supply travel brochures to the public, and in the primary international travel markets, the prospective traveler expects to be able to go to the local USTTA office and find brochures about the United States. If such brochures are not available, he is apt to visit the office of a competing tourism organization and to change his vacation plans. This is especially likely to be the case if he does not speak or write English and is unable to write to various U.S. state and city travel information offices.

If No Non-Federal Sources: Would Any Gaps Arise?

If you are unable to find non-Federal funding for publications, what gap in informational needs will be created.

A limited amount of literature on certain states and cities is available in English. Were these states and cities willing to supply literature for foreign distribution, the information gap in English

speaking markets would be moderate: prospective travelers to the U.S. would be able to obtain information about those destinations which provided brochures, but would not be able to inform themselves about tourist opportunities in those states which reserve their literature for domestic U.S. distribution. The problem would be more serious in markets in which the principle language is not English. Unless alternative funding were found to produce foreign language literature, requests for VISIT USA travel information could not be filled in markets such as the Federal Republic of Germany, France, Japan, Mexico, and Venezuela.

What Do You Do that the Private Sector Does Not

The private arm of the promotion for the tourism industry appears to do a much better job providing basic information and awareness. What is the role of the Federal Government?

One of our responsibilities is to ensure that the national tourism interest is fully-considered in Federal decisionmaking, and to represent that interest before international bodies which deal with tourism matters. In the field of marketing, we have a catalytic and coordinative role. For example, states, cities and private sector enterprises which have never operated in the international travel market — and whose presence there would help to expand U.S. visitor receipts -- are often reluctant to undertake promotional endeavors abroad. USTTA is able to brief these groups on market potential, industry structure within the various markets, and consumer travel patterns. In addition, we are able to bring together "new to the market" U.S. travel suppliers and foreign travel buyers and to suggest the most effective strategies and techniques to be applied to each market.

The regional brochures which you produce appear rather mundane and routine, whereas the private brochures hit you solidly with awareness and important but brief facts. Why are you in the brochure business to begin with if the private sector will do the job on their own?

The prospective visitor -- especially if he does not read or write English -- needs a central source of information about the United States in his own language. Other governments provide such a source in the form of national tourism administration information offices. Although the private sector does publish its own literature, it does not distribute that literature through a central clearinghouse. Nor do all private sector enterprises produce literature in languages other than English. Furthermore, private sector companies tend to promote their own services or attractions. This is not always effective in the international market place because the typical foreign visitor does not come to the United States to visit a single attraction or to stay at one specific hotel. Because international air fares are relatively expensive, the visitor finds it more economical to stick to a multi-stop itinerary while in the United States -- the same way that an American tourist buys a package which incorporates London, Paris, Rome, Madrid and Lisbon. U.S. destinations and attractions need to be marketed on a regional basis, and this is what USTTA has done with its regional brochures.

Regional Approach Will Soon be Picked Up by Privates

I understand that the Travel Industry Association of America is currently developing promotional materials on a regional basis which will be distributed later this year. Are other private and State organizations moving to fill the literature gap on regional promotion?

TIA has no regional promotional materials at present, and so far as we know, there are not regional promotional materials available in languages other than English or in the degree of specificity which is required by foreign nationals who are unfamiliar with the climate, customs, services or enormous spatial distances found in the United States.

Receptionist Assistance at Airports

To what extent does your port receptionist-multilingual assistance activity parallel the passenger arrival assistance work of the airlines through their joint tenant carrier Customs/Immigration/Public Health Service facilitation committees at U.S. international arrival airports?

The port receptionist-multilingual assistance activity and the passenger arrival assistance work of the airlines are parallel in that both are aimed at facilitating the entry of non-English speaking visitors to the United States. The airline personnel respond to their passengers' needs during the entry formalities. The port receptionists circulate throughout the Federal inspection areas to greet passengers, check entry forms for completion and accuracy, direct passengers, provide interpreting services for non-English speaking passengers and the U.S. inspection agencies, and provide direction to airport facilities and services, ground transportation and local accommodations.

Would cooperating organizations maintain the receptionist program without USTTA funding support?

In three locations, port receptionist corps have already been eliminated due to a reduction in funds. These include Dulles International, San Francisco International, and Puerto Rico International Airports.

Chicago elected to continue the program using local funds. We estimate that six of the current 12 airport authorities would attempt to continue the program.

Alternative Sources of Funding

In your statement you say you are studying alternative sources of funding for some items. Specifically:

a. What is your strategy for gaining such funding?
b. Whom have you approached in the private sector?
c. What have you been offering for their support?
d. What have been your successes?
e. What are you currently working on?

f. Has the Travel and Tourism Advisory Board been helpful in identifying alternative sources of funding?
g. How successful do you believe your efforts to achieve alternative sources of funding will be?

a. We have used keynote speeches before and consultations with industry groups as a principal vehicle for gaining alternate funding. Very simply, we have explained the Federal role in tourism, described Federal resource limitations and suggested that there is a need for public-private sector cooperation.

b. We have approached a number of groups. As a result, the National Tour Brokers Association has funded the printing of 75,000 full-color maps of the United States which will be distributed abroad by USTTA and domestically by the National Park Service. American Express is funding a similar project, and both Pan Am and TWA have offered to transport VISIT USA materials abroad. The American Bus Association underwrote the cost for two pages of USTTA's input into a VISIT USA supplement in Readers Digest which will be circulated in Scandinavia. Other similar projects are under negotiation with the American Society of Travel Agents and the American Hotel and Motel Association. Approximately $200,000 has been pledged to date.

c. We have made no specific offers.

d. Success is, of course, a relative term. But if success is finding a way to provide promotional materials which could not otherwise have been supplied to a market, then I would say, we have been successful.

e. USTTA is working on, among other things, the development of a mechanism which will provide for the funding of critical international program activities of the United States travel and tourism industry and the USTTA.

f. I am sure that it will be helpful, but the Board was only just appointed and has not yet had an opportunity to organize and meet. As you may know, the Board, authorized by the National Tourism Policy Act, is not chaired by the Secretary of Commerce or the Under Secretary for Tourism. It will select its own officers and set its own agenda.

g. I have every hope that our efforts to raise private sector funding will eventually be as successful as those of the European Travel Commission and the Pacific Area Travel Association. The European Travel Commission, for example, conducts a $1 million campaign in the U.S. every year, using private and public sector funds. Many of the private sector entities which participate in this campaign are members of the U.S. travel industry.

Increased Billing Due to General Administration Shortfall

At our hearing yesterday, Deputy Secretary Wright explained how the bureaus are being billed for additional expenses because of the reduced funding level for the General Administration account. What unbudgeted expenses have you been asked to incur due to this need to replenish the General Administration account?

At what rate did you budget for rent in fiscal year 1982? How much are you now being billed for rent? Is this increase the General Administration shortfall? If so, how?

USTTA has been asked to incur $110,000 in unbudgeted expenses.

USTTA had budgeted $180,000 for rent in FY 1982. The FY 1982 rent is now projected at $160,000, which was reduced because of a reduction in force and the release of some space. This has no relationship to the GA shortfall.

Special Research Analyses

In your statement you refer to special research analyses which will be done in FY1983.

A. Describe for us the content of these special research analyses. Is there sufficient interest in these matters to expect them to be done by non-governmental firms without governmental financing?

B. Will these analyses be done inhouse or contracted out? Does the scope of these analyses require that they be done inhouse?

I would like to request that the following summary information about the proposed in-flight survey program -- which is the research to which I referred in my statement -- be inserted into the hearing record. It should be noted that findings would be made available to subscribers, including members of the industry and states which decide to participate.

1. Individual participating airline passenger profiles. Each participating airline will receive confidential cross-tabulation of survey results from passengers on (their own) sampled flights. Cross-tabs should also reflect major routes covered in the sample, for each airline.

2. National Park Service profile. As a co-sponsoring agency, the National Park Service will receive a quarterly cross-tabulation of survey results for respondents visiting national parks in the U.S. Specific data requirements will be provided by the NPS.

3. Destination profiles. Survey results will be marketed to individual States, major destinations, cities, and regions. Destinations willing to contribute to the annual survey support fund will be provided with a custom report profiling survey results according to the individual destinations visited (i.e., a profile of travelers/trips to an individual State or city), as well as the regularly published national report. Depending on adequacy of the particular sample cells, specific cross-tabs should include a breakdown of the data by Mexican respondents, total overseas respondents, and (perhaps) respondents from top three countries (in terms of incidence in the sample) supplying visitors to the respective destination. Details of the make-up of these proposed special reports should be carefully and expeditiously determined as soon as possible. For initial planning purposes, an estimate of 20 to 25 anticipated destination sponsors will be used.

4. User tapes and other custom reports. A user tape mode will also be built into the quarterly reporting system. User tapes should be available to those individual customers who wish to conduct more in-depth data analyses of the survey results. Confidentiality of

the individual airline data must be maintained; therefore, specific airline codes must not be accessible on these tapes. Charges for each quarterly tape should be set at a level which will be competitive with the amount charged individual destinations for TSC-prepared custom reports.

Requirements for other custom reports will be evaluated as the demand for such special data runs is determined.

USTTA In-Flight Survey System

- The system will entail sample surveys aboard international flights departing the U.S.A.
- Over 30 major (U.S. and foreign) international air carriers have agreed to cooperate in carrying out this survey system.
- The Transportation System Center of the DOT will act as USTTA's administrative arm in tabulating and processing the survey results.
- Traveler and trip characteristic data on departing overseas and Mexican visitors will be gathered.
- Quarterly reports of survey results will be generated.
- The target data for initiation of field work is July 1, 1982.

Data Elements to Be Analyzed on Foreign Visitors to the U.S.A.:

- First-time vs. repeat visit to USA
- Country of Residence
- Age
- Sex
- Occupation
- Purpose of trip
- Size and composition of travel party
- Date of entry
- Date of departure
- Port of entry
- Port of departure
- Desinations visited in U.S.A.
- Length of stay at U.S. destination
- Convention/conference attendance
- Travel agency usage in booking trip
- Prepaid, inclusive-tour usage
- Tour price
- Class of fare
- Expenditures in USA (per capita and by object category)
- Nights spent in various accommodations
- Airline used for arriving/departure*
- Air fares paid (round-trip and/or one-way, with city pairs)
- Secondary modes of transportation used while in the USA

*Special confidential cross-tabulations/profile data will be provided to individual participating airlines.

In answer to the second part of the question, the Transportation Systems Center of DOT, which will carry out the data tabulating and processing for the USTTA, will also prepare the regularly

published quarterly data reports. However, any interpretative analyses required on the data, to detail marketing implications of the information, for example, would be performed inhouse by USTTA research and marketing staff. While the Transportation System Center has the technical capabilities and unique data processing resources required to carry out the collection, processing, and generation of the basic data, marketing interpretation and application falls in the area of responsibility of USTTA and other users of the data.

QUESTIONS SUBMITTED BY SENATORS DANIEL K. INOUYE AND ERNEST F. HOLLINGS

Marketing Plan

Existing law requires USTTA to submit a marketing plan to Congress which would include "estimated funding levels required to implement it" and "alternate means of funding the activities" for that marketing plan.

In your testimony before the Senate Commerce Committee you admitted that the amount of the Administration's budget request was not sufficient to finance the marketing plan which USTTA is required by law to devise and implement.

You also said that you did not feel that this failure to include funds for a marketing program was contrary to the law, because the law directed you to submit a proposal for "alternate means of funding", (i.e. assistance from the industry), and you intend to fund the program via the private sector.

In other words, you interpret the phrase "alternate means of funding" to mean that you do not have to submit a plan for Federal funding.

We submit a reading of the entire legislative history of the National Tourism Policy Act does not support your interpretation. Properly read, does not the law require you to submit a budget requesting federal funds sufficient to fund the marketing program, and alternate ways of obtaining funds for that program?

We believe that USTTA has complied with the terms of Section 3 of P.L. 97-63 which requires the submission of a marketing plan after the President submits his budget recommendation.

Overseas Offices

Doesn't the Administration's request for FY'83 ignore the provisions of existing law which require that the funds made available for the overseas offices in any fiscal year shall not be less than the amount obligated in FY'80? In FY'80 the amount obligated was $6.4 million; whereas the amount proposed for FY'83 is $3.84 million.

Section 4(b)(2) of the National Tourism Policy Act provides that, "In any fiscal year, the amount of funds which shall be made available from appropriations under this Act for obligation for the activities of the offices of the United States Travel and Tourism Administration in foreign countries shall not be less than the amount obligated in FY1980 for the activities of the offices of the United States Travel Service in foreign countries." While this provision restricts USTTA's use of appropriations under the Act,

it does not prevent the agency from requesting the Congress to consider an alternate requirement for use of its FY83 appropriation. The FY83 budget proposal constitutes such a request. The Department is asking the Congress, by way of an FY83 appropriation act, to modify the restriction contained in 4(b)(2).

USTTA testified before the Senate Commerce Committee to the effect that with a $5.03 million budget USTTA cannot have an overseas marketing program, and that the agency will simply have personnel located overseas. But doesn't the law direct you to have an overseas marketing program?

USTTA did not testify that it could not have an overseas marketing program at the $5.03 million level. I testified that at the $5 million funding level, USTTA would be able to provide those marketing services which can be personally performed by the regional directors and their staffs, by mail or telephone and by one-on-one personal meetings (or group meetings) in the metropolitan areas in which the regional offices are located. In other words, we would be able to (a) provide professional counsel to trade inquiries and give technical assistance in tour planning and construction; (b) conduct workshops and training programs for tourism industry staff; (c) provide technical assistance in the planning and organization of product familiarization trips for the travel trade and journalists; (d) provide technical assistance to the trade in the organization of travel missions; (e) counsel individual consumer prospects; (f) compile and disseminate general market intelligence to the travel trade; (g) provide liaison between international associations and U.S. convention bureaus interested in international congress business; and (h) distribute state, city and private sector news releases on U.S. tourism destinations. We would not be able to (a) produce, store, package or distribute promotional literature; (b) augment our consumer counselling capability by hiring professional travel advisors to handle public inquiries in those markets in which there is a high and continuing volume of such inquiries; (c) retain media services contractors to arrange for broadcast and print media coverage of U.S. destinations; (d) provide multilingual reception assistance to foreign visitors clearing entry formalities at U.S. ports of arrival; or (e) conduct and disseminate market research.

How much of this $6.4 million which was obligated for the activities of the overseas offices was actually spent for them? In other words, did you charge any of the Washington salaries or other "non-overseas activities" against that $6.4 million?

The $6.4 million budgeted for the field offices in FY1980 was not for activities alone, but also included administrative overhead, including salaries of appropriate Washington-based support personnel. In FY1982, 11.3% of the $6.4 million Field Office Budget is for administrative overhead, salaries included. The breakdown is as follows:

SALARIES

(Including the estimated Washington-based staff year support necessary to administer the Field Offices) - - - -$446,000

ADMINISTRATIVE OVERHEAD

(Including travel to field locations; overseas telephone costs; accounting, personnel and ADP support; duplication costs; U.S. and APO postal costs, relocation expenses, etc. - - - -$280,000

TOTAL $726,000

These figures are estimates based on historical annual costs of the categories enumerated, and they may change. In addition, full year, FY1982 costs have not been obligated because USTTA's continuing resolution, in lieu of an annual appropriation, expires on March 31, 1982. Obligations will be completed after final action is taken by the Congress. Provided there is no budget reduction by the Congress, we anticipate obligating $6.4 million for Field Office operations.

Would any salaries, etc., for Washington personnel be charged against the $3.84 million requested for the overseas offices in FY'83?

We have no plans to charge administrative overhead costs incurred by headquarters (except for those itemized above) to the field. However, we have been advised by legal counsel that at the end of the fiscal year, any amounts allocated to the field, but not actually obligated, would be available for other purposes. Should any field office not obligate all of the funds allocated to it, and if there are other pressing financial needs, we would, of course, consider addressing those needs.

Do you agree that a promotional effort needs more than advertising? In other words, unless you have the back-up (such as literature, information, etc.) to service the demand advertising is expected to create, an advertising campaign really cannot achieve its purpose. Does USTTA's budget provide for the necessary backup overseas, i.e., literature, information, etc.?

At the $5,033,000 level, USTTA's budget would not provide for literature, information, etc.

State Travel Funds

We understand that last year state travel offices spent a combined total of $136 million on travel promotion. Of that amount, only 2.6% was spent on overseas promotion.

1. Doesn't this suggest that most state travel offices have small promotion budgets; and that most of the small amounts they do have is spent in neighboring state markets?

2. Since states must spend their limited promotional dollars where their largest markets are located (usually neighboring states), how realistic is it to expect them to respond with the money to a

catalytic effort by the Federal Government to promote their state or region overseas?

I would not expect the average state to commit $100,000 to a cooperative VISIT USA campaign. However, I do believe that most states might be able to invest $5,000 or $10,000 and that individual travel industry enterprises might be willing to contribute $1,000 to perhaps $20,000 each, depending on their size and interest in the international market.

Small Business

Gifts, Souvenirs, and Purchases rank as the second most important category of foreign tourist expenditures, exceeded only by food and lodging.

Is it realistic to expect that the small businessmen who operate the hundreds of thousands of gift and souvenir shops throughout the country would be able, or indeed even perceive it to be in their interest, to budget funds for international tourism promotion?

If each of the 1 million small businesses which comprise the travel industry were to commit just $1 dollar to a VISIT USA campaign, $1 million dollars could be raised to promote travel to the United States. Obviously, if each such business committed a larger amount, say $10, $10 million would be available. I think that it is quite realistic to expect small entrepreneurs to be willing to invest such an amount.

Private Sector Funds

Pan, Am, TWA, Hilton, Sheraton, etc., (in other words, "big business") make up about 1% of our tourism industry, and they spend many millions of dollars promoting destinations in the U.S. they serve.

Would you agree that those companies cannot be expected to promote destinations in the U.S. which they do not serve?

I would expect them to promote their own services and/or properties.

Consumer and Trade Association Program

The National Tourism Policy Act requires USTTA to "develop a program to seek and to receive information on a continuing basis from the tourism industry, including consumer and travel trade associations, regarding needs and interests which should be met by a federal agency or program and to direct that information to the appropriate agency or program."

(A) Which office within USTTA has been assigned this responsibility?

(B) How much money and how many personnel are assigned to the program?

(C) Do the personnel devote full time to the program?

(D) Specifically, what has been done to develop this program?

(A) The Office of Policy and Planning.

(B) No program funds have been devoted to this activity. One person has been assigned to this program.

(C) No, the one person assigned has numerous other responsibilities.

(D) In a limited way efforts are underway to respond to this mandate in the National Tourism Policy Act. One effort is the preparation of materials for participation by USTTA in State Governors Conferences and similar events. Such participation allows for the receipt of direct input from state and local entities and the private sector. In addition, various individuals and groups have been contacted for information as input to the Tourism Policy Council. This Council, made up of representation of different Federal agencies, can respond to some of the needs and interests of the travel industry. At its first meeting on January 12, 1982, visa waiver legislation (of vital interest to the travel industry) was discussed. Furthermore, a Travel and Tourism Advisory Board, with membership which cuts across the travel industry, has been established. It is expected that this Board will be a source for receiving information on international tourism programs important to local and state governments and the private sector.

Travel Information and Data

The National Tourism Policy Act requires USTTA to develop and administer a comprehensive program relating to travel industry information, data service, training and education, and technical assistance."

(A) Which office within USTTA has been assigned this responsibility?

(B) How much money and how many personnel are assigned to the program?

(C) Do the personnel devote full time to the program?

(D) Specifically, what has been done to develop this program?

(A) This responsibility is shared by the Office of Policy and Planning and the Office of Research.

(B) No program funds have been directly devoted to this activity. Two people have been assigned to this program.

(C) No.

(D) The Office of Research releases numerous informational reports and data summaries valuable to the travel industry. This office plans to launch a comprehensive program in July 1982 aimed at determining where foreign visitors go, what they do, and how they spend their money when they are in the United States. This effort will help the USTTA coordinate its tourism promotion programs with state travel offices and private firms more closely than has ever done before. In a limited way, USTTA staff provide help in training and education and technical assistance. For example, on March 19 and 20 a staff person from USTTA helped to conduct a training and education seminar for the Northern California Chapter of ASTA. Technical assis-

tance is provided in several different ways, as for example, to states and cities who wish to conduct travel missions abroad.

Questions Submitted by Senator Patrick J. Leahy

Tourism

My home state of Vermont has a very active and important tourism and travel industry. The success of our travel and tourism industry and its tremendously positive impact upon people involved in its promotion as well as the natural beauty and attraction of the Vermont countryside.

The Vermont travel and tourism industry has managed to remain healthy despite the recent economic downturn in part by being innovative in its marketing. An integral element of this marketing strategy is a serious effort to enter the international travel market. The United States Travel and Tourism Agency (USTTA) has been, and remains, essential to this effort.

For example, Vermont has, as a consequence of USSTA's support, been able to work more closely with its Canadian counterparts in Montreal and Toronto to develop joint marketing approaches. Presently, Vermont is working with the Province of Quebec to encourage Canadian tourists to come to Vermont through a fly-drive program which would feature Montreal-Vermont, Atlantic Provinces-Vermont-New England packages to be offered in the South.

By and large, the program run by USTTA at the current funding level has yielded significant results in Vermont. With the USTTA's aid, Vermont is now seeing visitors from such countries as France, England, Australia, Venezuela, Brazil, Argentina, Panama, Ecuador, and New Zealand. And the potential for even more growth is very encouraging for Vermont and other states that depend heavily on tourism for the health of their economies. With this background, I have the following questions for the record:

1) If the requested budget reduction for FY83 from $7.6 million to $5.0 million is approved, specifically what personnel positions will have to be eliminated? Will these staff reductions occur in the overseas offices or the domestic offices?

To accommodate to the limited resources in the continuing resolution that is funding operations in FY1982, it was necessary for USTTA to reduce the Washington staff. It may be necessary for USTTA to eliminate one additional staff year of effort in the Washington office in FY1983.

2) With the personnel reductions necessitated by the proposed cuts, does the USTTA plan to offer the same level of support for state efforts to promote international tourism? If not, specifically what programs and activities will be eliminated?

No, unless alternative funding becomes available. While the overseas staff levels would remain the same, headquarters staff would be reduced and program funds would be eliminated. For example, USTTA would not produce promotional literature in the five major market languages. This literature presents the merits, activities

and attractions of destinations in the United States as a whole, and portrays this country as a preferred tourist destination for the international consumer. Consumer information services would be reduced. For example, in 1981 approximately 200,000 calls were dealt with in Canada. With the budget reductions this level would likely be about 25,000. Media services including support for destination feature materials supplied by U.S. regions, states and cities would be reduced. The Port Receptionist Program currently funded cooperatively by Federal Government agencies and State and local authorities would not have USTTA support. The research program which provides the marketing intelligence would be reduced.

LETTER FROM SENATORS CANNON AND PRESSLER

Senator WEICKER. This additional documentation will be made part of the record at this point.

[The information follows:]

LETTER FROM SENATORS HOWARD W. CANNON AND LARRY PRESSLER

March 17, 1982

The Honorable Lowell Weicker
United States Senate
Washington, D.C. 20510

Dear Lowell:

We are writing regarding the fiscal year 1983 funding level for the United States Travel and Tourism Administration.

The Department of Commerce, as you are aware, has requested only $5 million for the U.S.T.T.A. We see several problems with this figure.

First, the National Tourism Policy Act (P.L. 97-63), which was enacted last year, requires the foreign offices of the U.S.T.T.A. to be maintained at a minimum level which is equal to that provided in 1980. This would require $6.4 million for 1983. Obviously, the Administration's request of $5 million does not meet this minimum statutory requirement.

Second, it became apparent during recent testimony by Undersecretary of Commerce Peter McCoy that the $5 million would not be sufficient to fund any programs for 1983. At this level, all funds would be required simply to pay the salaries of the already greatly reduced U.S.T.T.A. staff (current total staff = 13 in Washington and 45 overseas).

Third, it cannot be argued that this agency has not done its part in the budget cutting effort. In 1979, the U.S. Travel Service budget stood at $13.5 million. After a critical Congressional review, reforms were instituted and the budget was reduced to $8.0 million. This reduction was also made with the idea that Congress would shortly be enacting new legislation to provide a successor organization to the U.S. Travel Service. This has now been accomplished, and it is our feeling that we need to provide this new agency with the necessary resources to carry out its Congressional mandate. The current budget level of $7.6 million is inadequate, and the proposed $5 million figure would strangle the new agency.

Finally, we would like to inform you of the authorization position being taken by the Senate Commerce Committee. A bill will be introduced shortly to authorize $10.5 million for the U.S.T.T.A. for fiscal year 1983. Two points are in order here. First, this figure represents the minimal amount we feel is necessary for the U.S.T.T.A. to carry out the Congressional directives specified in P.L. 97-63. Second, this $10.5 million figure still represents more than a 20% reduction from the 1980 appropriation (in uninflated dollars). We have also attached a sheet which outlines the recent funding history of the U.S.T.T.A., and which shows that the $10.5 million figure will serve to bring the agency's budget back in line with the rate of inflation for the past three years.

Lowell, we honestly feel that this request is not out of line in light of the history of the issue and when compared with the rest of the 1983 budget. Also, we hope that you will agree with us that, considering the importance of the travel

and tourism industry to the economy, this amount could in no way be construed as overfunding.

Thank you for your consideration of our position.

Sincerely,

HOWARD W. CANNON

LARRY PRESSLER

United States Travel and Tourism Administration Budget

ACTUAL SPENDING

Fiscal	1979	$13.5 million
	1980	8.0 million
	1981	8.0 million
	1982	7.6 million
Proposed	1983	5.0 million

The Commerce Committee makes the assumption that after the drastic budget cut made in 1980 the agency should have at least received increases to cover inflation during subsequent years. The Committee is using those calculations in determining the authorization level for fiscal 1983.

INCREASES IN THE 1980 BUDGET TO COVER INFLATION

Fiscal	1980	$8.0 million	
	1981	8.992 "	(1980 CPI = +12.4%)
	1982	9.792 "	(1981 CPI = + 8.9%)
	1983	10.527 "	(1982 CPI est. = + 7.5%)

$8.0 million x 12.4% = $992,000	=	$8.992 for 1981
$8.992 million x 8.9% = 800,288	=	$9.792 for 1982
$9.792 million x 7.5% = 734,400	=	$10.527 for 1983

A level of $10.527 million would only bring the USTTA back in line with inflation since 1980. This total would still be $3 million below the 1979 funding level.

National Oceanic and Atmospheric Administration

STATEMENT OF JOHN V. BYRNE, ADMINISTRATOR

ACCOMPANIED BY:

ANTHONY CALIO, DEPUTY ADMINISTRATOR
RICHARD HALLGREN, ACTING ASSISTANT ADMINISTRATOR FOR OCEANIC AND ATMOSPHERIC SERVICES
WILLIAM G. GORDON, ASSISTANT ADMINISTRATOR FOR FISHERIES
NED A. OSTENSO, ACTING ASSISTANT ADMINISTRATOR FOR RESEARCH AND DEVELOPMENT
WILLIAM MATUSZESKI, ACTING ASSISTANT ADMINISTRATOR FOR COASTAL ZONE MANAGEMENT
JOHN J. CAREY, DIRECTOR, OFFICE OF BUDGET AND RESOURCES MANAGEMENT
JAMES SMITH, BUDGET OFFICER
ARLENE TRIPLETT, ASSISTANT SECRETARY FOR ADMINISTRATION
NANCY RICHARDS, DIRECTOR, OFFICE OF BUDGET FOR THE DEPARTMENT OF COMMERCE

PREPARED STATEMENT

Senator Weicker. Our next request is out of the National Oceanic and Atmospheric Administration, a request of $792,530,000, a decrease of $106,943,000 for 1983 base which comprise permanent positions. We have with us the Administrator, John Byrne. I will let John introduce those that he has brought with him.

John, your statement will be included in the record in its entirety at this point.

[The statement follows:]

92-810 O—82——42

STATEMENT OF JOHN V. BYRNE

Mr. Chairman and members of the Committee, I appreciate the opportunity to appear before you today to present the Administration's fiscal 1983 budget request for the National Oceanic and Atmospheric Administration (NOAA).

Our budget request for fiscal 1983 totals $792.5 million. These funds are requested to allow for among other things: (1) the continued provision of essential public forecast and warning services; (2) ongoing satellite remote sensing support activities; (3) the production of nautical and aeronautical charts and maps; (4) basic fisheries resource management, development, conservation and related research activities; (5) protection of endangered species and marine mammals; (6) the establishment of marine and estuarine sanctuaries; and (7) continued supporting research in the oceanic and atmospheric areas.

Before addressing the specific proposals which make up our budget request, I would like to spend just a minute reviewing with you the present state of the agency and some of the efforts we have under way to chart a course for the future. I believe that such a perspective is useful in understanding our fiscal 1983 budget request and in providing a context for addressing the issues which it raises.

In the seven and one-half months that I have been NOAA Administrator, I have been impressed by the strength and resourcefulness of the agency. Most of all I have been impressed by the level of commitment and dedication of our employees in carrying out the responsibilities we have been assigned by the Congress. I believe that the services we provide to the general public, businesses, and other governmental agencies--whether they involve weather forecasts and warnings, navigational charts, fisheries resource information, or environmental research and monitoring results--are "first rate"; and I am proud of that fact.

But, if we are to maintain and improve the quality of our services and meet new challenges in the years ahead, we need to position ourselves to do so. We need an organizational structure, a plan, and the flexibility that

will permit us to focus and utilize available resources to meet our objectives. In light of the current economic situation and the President's desire to hold down the cost of government, it is all the more important that we organize for the future.

We have already initiated a number of steps. I have announced my intention to reorganize the agency to bring about a more logical structuring of our varying functions. This reorganization should sharpen responsibilities and widen communication and coordination throughout the agency, bring about a more efficient operation, and help us to improve and provide our services at less cost. I will be making a formal proposal to the Department shortly. We will then be seeking the Committee's approval for these changes through a reprogramming request.

We have also initiated a process for developing a comprehensive NOAA five-year plan. This is not an easy task, as it brings quickly into focus all the competing demands and priorities that are easier left unordered. We badly need the plan, however, if we are to be responsible stewards for the programs we have been entrusted to manage. I see the five-year plan as setting forth our priorities and future directions for the agency and as being an essential element in the development of future budgetary requirements.

But, an organizational structure and a plan alone are not sufficient; we also need an understanding on the part of everyone involved in the budget decision-making process that, in order to meet our objectives, we will need flexibility in future budgets to meet changing priorities.

In the fiscal 1983 budget there are a number of areas where we are proposing some shifts in program priorities and, frankly, where we believe Federal support should be reduced. The sum total of these actions will produce a leaner NOAA, but one, I believe, that is in a better position to apply its talents and energies to improving services and addressing emerging problems and concerns.

Let me highlight a few of these areas in relation to some of the specific program changes we are requesting as part of our 1983 budget.

Oceans and Coastal Programs

In support of our oceans and related coastal program activities, we are requesting $140.6 million in the 1983 budget.

One of the promising areas of development for our country lies in the oceans. The possibility of securing needed hard mineral resources and renewable energy from the oceans is exciting. NOAA is involved in both of these areas and is responsible for establishing the regulatory and licensing framework that will permit U.S. firms to begin operations in these areas. In the 1983 budget we are requesting a small, but important, increase of $300 thousand to enable us to continue to carry out our responsibilities in these two areas.

In the ocean service area, we are developing a series of full cost recovery programs with state governments. For example, we expect to sign a cooperative agreement with the State of New York to provide real-time water level telemetry for merchant shipping in New York Harbor to improve operational efficiency and safety. We also have cooperative agreements with several coastal states to provide marine boundary tidal datums. These datums are used for state and Federal jurisdictional decisions, storm surge studies, hurricane warnings, and offshore leasing regulation, which is especially important in frontier areas such as Alaska. We see these efforts as one way to lower the direct cost of certain services while maintaining these important activities.

In the coastal area we will continue to discharge our responsibilities under the Coastal Zone Management Act, working with the states to ensure the proper administration of the program, particularly those aspects related to the Federal consistency provisions. We are not requesting any new funding to support the grant portions of this program, as we continue to believe that the states are now capable of maintaining their own programs. Consistent with

this we are requesting that $12 million in 1982 monies for State 306 program administration grants be rescinded along with $7 million in available Coastal Energy Impact Fund (CEIF) monies. At the same time we propose to continue support for existing and new Marine and Estuarine Sanctuaries where they fit with NOAA's resource management responsibilities.

Consistent with proposed program changes elsewhere in the budget, we are requesting some reductions in the ship support area. We believe we can lay-up one of our Class I research vessels as an economy move. The costs of operating and maintaining these vessels are very high. The use of ships to support Federal, state, university, and other research efforts needs to be fully reexamined to ensure that we are maximizing the use of these research platforms. We are working with other Federal agencies and with the university community to share and coordinate ship efforts for improved efficiency of the nation's entire Federally supported ocean fleet. The actions we are proposing in the 1983 budget in this area will achieve a savings of $6.6 million.

Living Marine Resources

In the fisheries area, we are proposing a number of programmatic shifts in emphasis to return to the private sector and the states those activities which are more appropriately carried out by them. These programmatic shifts will produce a savings of approximately $46 million while allowing the National Marine Fisheries Service (NMFS) to continue basic activities associated with the conservation, management, and development of our Nation's living marine resources.

With our requested 1983 budget of $106.8 million for NMFS, we will be able to concentrate our efforts on: (1) conservation and management activities; (2) continuing essential stock assessment services; (3) maintaining essential fishery information services; and (4) managing only those fisheries in need of management. Our emphasis will be on resources for which the Federal Government has clear responsibility.

Selected efforts to promote the full development of our fishery resources will continue; however, we are asking the industry to assume greater responsibilities for its own future. The Government's role will be primarily that of a catalyst in creating an atmosphere in which the industry can thrive and expand. We will continue certain activities that industry cannot do, such as international trade negotiations, export marketing, product quality, and safety services.

We will continue our research and management programs for the protection of marine mammals and endangered and threatened species for which NOAA has statutory responsibility. Additional savings in these programs, however, will be achieved through strengthening our partnerships with the states.

We are also proposing that our habitat conservation activities be more fully integrated with fishery management and development needs in recognition of the requirements for balanced multiple use of all the Nation's marine resources. In this regard, we will continue to provide essential research and support services necessary to influence multiple use decisions regarding the marine environment.

There are six fishery programs which are proposed to be turned over to the States or private sector. We are requesting that we begin a four-year phase-out of Federal support for the administration of the Pribilof Islands fur seal activities and a three-year phase-out of the Columbia River salmon hatchery program. We are working with the involved states to develop transition plans. We are also proposing termination of our state and anadromous grant programs as well as our fishery development grant program under the Saltonstall-Kennedy Act. Finally, we are proposing termination of our aquaculture research and development program. These initiatives are consistent with the President's new Federalism effort.

Weather Services

In the 1983 budget we are requesting $244 million to support our weather observation and prediction services.

One of our major objectives which we are committed to is the development of a plan to modernize the National Weather Service. That plan will require investments in new technology. It will also, at some point, mean a contraction in the number of our manned weather stations.

The budget which you have before you proposes the closing of 45 weather stations, including 25 full-time service offices. The Administration has decided to withdraw this proposal and a formal notification to that effect will be submitted to you shortly. The Department will also forward a reprogramming notice that will provide funding in FY 1982 for the 20 part-time stations that the Congress has directed remain open this year.

We do need to make changes in the way weather data is collected and forecasts and warnings are prepared and disseminated. This is a good example of an area where we are going to need your help and understanding if we are to make further progress in improving our weather services. There are opportunities to increase the quality of weather services while still achieving some savings in the long run. I would like to begin now to work with you and other members of the Congress to see if we cannot get this process moving along.

In the 1983 budget we have additional Weather Services related proposals which will produce a savings of $4.6 million. These involve the elimination of agricultural weather services and fruit frost support, both of which can be provided by--and in fact some already are being provided by--the private sector. A reduction in fire weather services is also requested. The National Weather Service will continue, however, to provide the basic observational data that is used in the preparation of these forecasts.

Management initiatives include the reduction of the number of NWS regions within the contiguous states from four to three, the centralization of the area forecasts for aviation, and a readjustment of the NEXRAD program.

To take better advantage of satellite information for weather prediction, we have requested an increase of $1.6 million, to begin procurement, instal-

lation, and evaluation of a Satellite Weather Information System (SWIS). This system, which will be installed at NWS field forecast offices, will enhance the usefulness of satellite data to our forecasters. This system will put satellite imagery directly in the hands of many of our weather forecasters. It just doesn't make sense not to avail ourselves of the data which are being collected and which can improve our forecasts.

Satellite Remote Sensing

Our total fiscal 1983 budget request for the National Earth Satellite Service (NESS) is $151.5 million.

In this area we are requesting additional funding of $35.5 million to continue our geostationary (GOES) satellite program. Our two GOES satellites provide 24-hour coverage of North America and play a critical role in supplying data for our weather forecasting activities. These satellites are particularly important for early identification and tracking of episodic events including severe storms and hurricanes.

The ever-increasing cost of maintaining satellite systems is a major concern to us and something which we will be working on next year. In order to reduce our costs in this area and to help reduce the overall level of Federal expenditures, we are proposing to reduce our polar satellite coverage from a two-spacecraft to a one-spacecraft system. This change will produce a savings of $20 million in 1982, $34.0 million in 1983, and a total savings of $271 million through 1992.

Supporting Research and Development

In the research and development area, we are requesting $151.6 million. There are several exciting new research areas we wish to expand; at the same time there are a number of field activities we have been conducting for the past several years which have accomplished their primary scientific goals and which can be reduced.

We are requesting an increase of $1.1 million to support two very important areas of research. An increase of $800 thousand will be used to initiate a new program to assess the commercial potential of metallic sulfides on the ocean floor, which hold great promise for alleviating some of our strategic mineral shortages. The remaining increase of $300 thousand will go to augment our work on the acid rain phenomenon which is of national and international concern.

We are proposing to terminate several program activities in the ocean dumping and weather modification area, which have been helpful in the past in providing new knowledge and data for future research. These activities include: (1) a number of field studies on the environmental effects of human activities in areas such as the New York Bight, Hudson-Raritan Estuary, and Puget Sound and (2) studies and projects we have undertaken to modify the weather, either to augment precipitation or to diminish the impact of severe weather. In both of these areas additional research is needed before further field project work is undertaken. To continue the specific field work in these areas at this time would have limited value. By eliminating such project activities, a savings of $12.8 million can be achieved. In the meantime we are planning to continue to carry out essential research in these areas through other NOAA programs and in American universities.

We are also proposing that both the Sea Grant College Program and the NOAA Underwater Research Program be turned over to the states and institutions which now primarily benefit from the infrastructure put in place through Federal funding. These programs are, in our view, fully mature and capable of carrying forward on their own. Terminating direct institutional support for these programs does not signal their end. NOAA--and I would expect other Federal agencies--will continue to avail themselves of the research expertise and services embodied in these institutions through direct project funding. NOAA will continue to support other research efforts in ocean and atmospheric sciences in the country's universities. The savings from these actions amounts to $35.9 million.

Financing

As part of the overall effort to reduce the direct cost of government and free up resources for other higher priority requirements, we need to be constantly on the look out for other means of financing program activities.

In the 1983 budget we have come up with four different, but philosophically similar, proposals to attribute more directly the cost of certain government services to the users of those services. The programs involved are the: (1) aeronautical charting program; (2) nautical charting program; (3) aviation weather services program, and (4) the LANDSAT data and information program. These programs involve some $67.7 million in expenditures, which we believe ultimately can be borne by other than the general taxpayer.

We will need legislation to effect these changes, but we believe this is a logical direction to be moving in and, over the long run, will help to clarify our resource requirements and priorities.

Conclusion

I have gone over with a fairly broad brush the major elements of our 1983 request. The underlying point is that we are trying to reduce the size of our operations, while maintaining our essential core services and establishing the flexibility to move forward in the future to improve those services. To this end, we are reorganizing the agency and developing a long-term plan as we make these reductions.

I would be happy to answer any questions which you or members of the Committee might have about our 1983 budget request.

Thank you.

BUDGET REQUEST

Senator WEICKER. I wish you would summarize your statement. I think it would be far more edifying if you and I and Senator Inouye entered into a dialog on some of these matters.

I want to say something at the outset; when the Secretary appeared before the subcommittee yesterday I made my position known on the importance to the Nation of that area of endeavor of your agency. I will not sit by and see what I consider to be an investment in the future decimated or torn down for contemporary reasons or expediencies. Now foremost among these are certain sea grant programs. The interest I am pleading here is served on behalf of the whole country by having the universities participate in the development and management of our resources.

In any event, why don't you go ahead with your statement and then let's get to talking about some of these matters.

Senator INOUYE. I want the record to show that you are speaking for me.

Mr. BYRNE. Thank you, Mr. Chairman.

I would like to introduce the people with me. At my direct right is Mr. Tony Calio, Deputy Administrator of NOAA, and to his right is John Carey who works in the Budget Office. This is Jim Smith, also from the Budget Office.

I appreciate your concern about the importance of the oceans and the activities that NOAA carries out for the country. I share these concerns with you and I think you know that.

We will address the sea grant program later, I am sure, when the questions arise.

In view of the short time available, I will offer only a few informal comments. You have the formal testimony for the record. We are requesting for this year a total budget of $792.5 million. I would like to say something about my impressions and what we are doing with respect to NOAA. I joined this organization 8 months ago as Administrator and I must say that since that time I have been very impressed by the organization. It is a good agency. It derives its strength from the employees who work for NOAA; employees who have a very high level of commitment and dedication to what they are doing. I regard my association with NOAA with great pride. I think it is a first-rate organization doing excellent and important things for the country.

As we encounter the changes in our economy, changes in our social and other needs, we recognize that we need to look to the future. In doing that, we have attempted to initiate some reorganization of the agency which will make it possible for us to respond to needs a little more expeditiously and provide additional focus for our activities in the ocean. In addition to this reorganization which is in process at the present time, we are also attempting to develop a 5-year plan for the agency with a 10-year outlook. Until we have such a plan in place, we believe we won't be able to focus on future needs as adequately as we might, so we are moving ahead very rapidly with the 5-year plan.

We recognize, as does everyone who appears before you, that we are faced with a very severe economic situation at the present time. As part of this administration, we are attempting to play our role in that. This has resulted in reductions in some areas which we hope will not be detrimental in the long term to the activities that we need to carry out.

We do feel that it is essential to get the economy back in a healthy state. With our reorganization and planning, I think we will end up with an agency which is considerably tighter, more efficient and still be able to carry out those activities that are adjudged to be important by the people of this country.

In the oceans activities, we are requesting $141 million to support the broad range of services and related research. These include some increases, particularly in the areas of deep sea mining and ocean terminal energy conversion.

The fisheries area is one which we are also looking at very seriously right now. We are requesting $107 million to carry out our responsibilities for managing this particular important resource of the country. We propose to concentrate on activities which are clearly Federal responsibilities. In other areas we are turning to the private sector for those things which we feel the private sector and the States could pick up and carry out on their own. This implies that we will enhance our communication and interaction not only with private industry but also with State and local governments.

For the Weather Service, we are requesting $244 million. We believe that this budget will enable us to continue to provide the type of warning service that the Nation requires. We are requesting in fiscal 1983 an increase of $1.6 million to install direct satellite readouts in 52 of our weather stations. This will be initiated this year. This will make it possible for the forecast offices to use satellite data and other data simultaneously and electronically enhance the mode.

We had, as you know, earlier proposed a closure of 45 weather stations. Further consideration of this has led to the reversal on that. We are submitting formal notification to the effect that these stations should not be closed at this time. We are proposing a reprograming which will make adjustments and is on its way up to you.

In the satellite area, we are requesting $152 million which includes an additional $35.5 million to insure that our geostationary satellite program continues to provide coverage of North America into the future. We are also proposing reducing our polar satellite coverage from two satellites to one satellite. This will bring about a savings of about $20 million in 1982 and as much as $34 million in 1983 without seriously degrading the data and information currently obtained from two polar satellites.

In the research and development area, our request is for $152 million. This includes an increase of $800,000 for the polymetallic sulfides program which we believe has great potential for this Nation.

We also recognize some of the problems in terms of better understanding the atmosphere and some of the particular problems created by pollution of the atmosphere. We are asking for an additional $300,000 to augment our studies on acid rain.

As we made these increases we have attempted to evaluate our programs as to whether or not they serve a specific user community, and whether or not they might be better handled by the private sector. We are attempting to determine which of our activities really can be supported and can be carried out best by the Federal Government.

With that in mind, we anticipate the addition of user fee charges for aeronautical charting, nautical charting, aviation weather, and the LANDSAT program.

This is just a brief summary. I have hit only the highlights of our budget. I would be very pleased to answer any questions.

Senator WEICKER. Senator Inouye, any questions?

WEATHER STATIONS

Senator INOUYE. I have a few, Mr. Chairman. The Department has reversed its decision to close 45 stations, but I gather that OMB does not provide you with additional funds. How do you propose to maintain these stations?

Mr. BYRNE. We will have to reprogram some of the funds. This will require a number of adjustments in some of our technical developments and we stretch out a little bit to make those adjustments.

Senator INOUYE. Will that weaken the program?

Mr. BYRNE. I would not use the term weaken. It will cause us to readjust the program somewhat. We anticipate that we will still be able to provide the fundamental weather information which is required for forecasts.

Senator INOUYE. What about the 18 stations that are scheduled to be closed in 1982?

Mr. BYRNE. We are scheduled to close those.

Senator INOUYE. You are?

Mr. BYRNE. Yes.

AVIATION AND AGRICULTURAL WEATHER PROGRAMS

Senator INOUYE. You have indicated that you will terminate or reduce aviation and agricultural weather programs and you have suggested that these services can be appropriately provided by the private sector or by other agencies. Now what other Federal agency will be providing this service that you people are going to terminate?

Mr. BYRNE. Well, I am not sure that statement is completely accurate, although it may be in the budget.

Senator INOUYE. You think it is in the budget statement.

Mr. BYRNE. I think our primary focus here is to identify those programs which can be picked up by the private sector. We would assist the private sector in doing that. That pertains primarily to the agricultural areas. We look for other agency support in terms of, for example, fire weather. Much of the lands which are crucial in terms of forest fires are in the ownership of the Federal Government. These lands are managed by the U.S. Forest Service and so we would anticipate using them to pick up any extra service that they may require.

In the area of fire weather, we are looking at a reduction of about 50 percent of our present program. This still leaves us with the capability to address some of the issues where we have a unique capability, but this is one area in which we anticipate interest by the private sector in providing a specialized service. This applies to potential forest fires.

Senator INOUYE. With all the strange weather conditions we are having this winter, the drought that preceded it and now the floods I can't see where you get your justification to cut out this weather forecasting. I think the farmers for the most part just won't be able to pick up the tab

Mr. BYRNE. We are looking at this very seriously. The fundamental data will not change. We will still make those fundamental observations. I think we will see enhanced activity with the Agricultural Extension Service which, instead of providing specialized information on soil temperature and so on, will conceivably be asked to provide it to the private consultant or private communicant. In terms of climate, we don't see a large reduction in our service. There is some reduction involved, but we are still requesting $25 million for that for the long term.

Senator INOUYE. Thank you very much.

Thank you, Mr. Chairman. I have a lot of questions I would like to submit for Senators Hollings, Bumpers, Stevens, and Rudman.

FOREIGN FISHING ACTIVITY IN BERING SEA

Senator WEICKER. Senator Stevens.

Senator STEVENS. I have some worries, Dr. Byrne, about how you are going to deal with our plans in the Bering Sea that are designed to phase out foreign fishing activity. How can you keep our commitments under the 200-mile limit law if we cut those development programs to zero?

Mr. BYRNE. Well, the development programs may be reduced, but we are looking at a fundamental task to assess the stocks and to provide management with the taking of those stocks. The development issue is one which I think is in direct support of industry. We share the administration's position that we should provide a suitable climate for industry to assume the responsibility for as many of the activities as are suitable for them.

Senator STEVENS. Unless we have a truly coordinated Federal position with regard to foreign fishing, there is no way to eliminate the foreign fishing activity. I think that the developmental phase is part of the Federal responsibility. I don't know if anyone else is going to make the commitment to development if their decisions are going to be jeopardized by the failure of the Federal Government to take other actions that are necessary to move foreign fishing out of our waters.

What I am saying is if the private sector steps in to do their part, they are completely dependent upon the continued goodwill of the Departments of State and Commerce to make their opportunities available to them. On the other hand, unless development activity is underway, I am certain that the State Department and your agency are not going to

move the foreign fishermen out and it is one unique area where the risk is not going to be taken by private enterprise because they are so dependent upon Government action rather than upon the availability of the species.

The fish are there, we know they are being taken. They are taking 1.8 million metric tons of fish out of the Bering Sea, the foreign fishermen are; but they are not going to move out until the Government moves them out; and the Government is not going to move them out unless there is someone to take their place; and the private sector is not going to finance the development because they are not convinced that you are going to take the action to move the foreign fishermen out if they do. The commitment to development is absolutely required from the Federal Government or it is not going to take place.

I really don't understand why you zero that one out.

Mr. BYRNE. It is an activity that, with the proper communication between us and the private sector, can establish a climate in which the private sector should be capable of maintaining its own activities.

Senator STEVENS. If you phase out the development grant, you have to take its place with something, a loan guarantee. I know how much you people oppose guarantees but there has to be something there to say that the risk of Government action is not going to work against you. Our fishermen will take the risk of the fishing industry; they will take the risk of whether they will make a return off of their efforts, but they will not take the added risk that the Government may not continue to make more of the fishery available to the U.S. fishing fleet.

Mr. BYRNE. I see that not as a budget item but as an item in which the way we manage the agency becomes increasingly important.

Senator STEVENS. Well, they see it as a question of risk. You know, it is like interest rates right now. They are higher than they should be and the reason is the financial market does not feel that the Government is going to do what it says it will do. These people are not going to go out and build fishing vessels and take on the problems of fishing in that area which are immense and also take on the risk that the Federal Government will not do what it says it will do. We have to recognize that the development program was part of the whole scheme to assure the industry that the Government meant what it said.

Mr. BYRNE. The only response I can make to you, Senator, is that you have to judge us by our actions as we attempt to increase the opportunities of the private sector to engage in joint ventures that are appropriate. We will begin to put pressure on foreign countries not so much to take raw products from us, but to take processed products as well. In this way, we can enhance the economic climate for the fishing industry.

Senator STEVENS. Assume that you were sitting out there, in the current investment climate. I hope you know that I have a small interest in one of those boats—I am not talking about my own—I have taken this step without any help from you and I am not so sure I am glad I did.

Mr. BYRNE. I am sure you are very successful at it, Senator.

Senator STEVENS. No; we are not. There is no one making any money out there except the foreign fishermen right now, and the reason is that they are not being pushed out at the rate that everyone depended upon. But beyond that, if you were out there and you saw the title XI loan guarantees cut out, you saw the development grants cut off, you saw the overall support for weather, et cetera, cut off—I am going to get to that, too—how fast would you put your money forward when the foreign fishing fleets are already there? Is there a domestic policy that we are going to replace the foreign fishing fleet or not, John?

Mr. BYRNE. I think there is a policy that we are going to replace it.

Senator STEVENS. Then what are you going to substitute for evidence to the people that you want to make investments? Every action that has been taken so far has been contrary to that policy position.

Mr. BYRNE. I cannot respond to that because I think that essentially we are focusing on programmatic ways—the way we implement, the way we encourage not through dollars necessarily but by the regulations that we uphold, and by the posture that is being taken in conjunction with other elements of international trade.

Senator STEVENS. Well, are you prepared to move the foreign fishing fleets out for a couple years and not have a harvest of those species there to demonstrate your commitment? If you are not, nothing is going to happen.

Mr. BYRNE. We would consider that, but I suspect that in the overall biological interest of the stocks that we might find that that was not the best position to take. This may require change in legislation in any case.

Senator STEVENS. Well, I am sure you realize it is not going to take place then. We have a potential $2 billion domestic fishery there. This is the whole concept of the 200-mile bill—to make that species available for domestic harvest.

I really think that we are going to have to do something, Mr. Chairman, I don't know what but there is nothing left of the program that was initiated to assure that there would be the development of that American fishery. We have a trade deficit in 1981 that is up to $3 billion on fishery products. We could turn that around with very little commitment. As far as the Federal Government is concerned it could be turned around.

Why should we see the trade deficit increase because we are unwilling to provide very small amounts of money. Only $50 million in loan guarantees is committed in the title XI this year. By comparison, we are looking at a potential $2 billion fishery that could offset that $3 billion annual deficit in the fish products.

Mr. BYRNE. The thing that we see when we look at the Federal ship financing fund records for 1981, for example, is that the actual request and actions were less than $50 million.

Senator STEVENS. That is not the same program. The title XI program is the one we are looking at. It is a guaranteed loan program, you have got applications on it.

Mr. BYRNE. Is this the one with the limitation to the program? This is the program for $50 million in fiscal 1982 and $25 million for fiscal 1983. Is this what we are referring to?

Senator STEVENS. I am told there are $40 million in applications approved right now and you have cut that down another 50 percent to a $25 million level for next year with $40 million pending before the year starts.

Mr. BYRNE. When we submitted the budget, the intent was good. The $25 million is for next year. We have $50 million in 1982 and the requests that are in now would be handled with the 1982 funds rather than with the 1983 funds.

Senator STEVENS. Mr. Phillips tells me that we have only $10 million left of the 1982 amount and that is just for the applications that are pending already.

Mr. BYRNE. Yes.

Senator STEVENS. The point is that everything is being cut down. Here we have a chance to expand the fishing industry. I don't know anywhere else where you are going to make up for the foreign trade deficit.

Mr. BYRNE. We want to change that; there is no question about that.

Senator STEVENS. How are you going to do it unless the Government takes some action to stimulate development of the fishing industry. There are more vessels for sale now in Seattle than ever before. People are getting out of the fishery in droves now because of the general feeling that there is not the Government support for the development of the fishery that they thought would be there. Are they supposed to go out and build vessels and equip them while the foreign fishermen still have the quota? The only thing that will convince them to do so is evidence that the Government is involved in the development plan. I don't think you are going to have a quota available.

Mr. BYRNE. With respect to this year, it is my understanding that of the applications received we will approve only about one-half of them. However, that could change.

Senator STEVENS. The bulk of the foreign fleet is Government-owned. Japanese, Soviet, Korean, and Polish vessels are all Government-owned. Yet we want our private sector to go out and compete without any indication from our Government that there is a Government policy that will back them up. The loan guarantees are gone, the development grants are gone.

POLAR-ORBITING SYSTEM

Let's get into one other thing. Are we moving away from our commitment to sea navigation and weather monitoring? I am told that you want to cut one-half of the polar system which provides data for these activities.

Mr. BYRNE. The polar-orbiting system will still provide the coverage that we have for the eastern Pacific and the continental United States.

Senator STEVENS. Are you saying you are going to have the same coverage as well for the Pacific as you have had in the past?

Mr. BYRNE. I think it would be unwise to make that statement if we are reducing the number of our satellites. We think we can still provide the fundamental information that we need with the one satellite. We do

lose some data in certain portions of the Earth by reducing from two polar satellites to one and conceivably that will affect the accuracy of some forecasts in the area that we presently cover. I wish I didn't have to say this to you, Senator, but that will affect Alaska.

Senator STEVENS. Mr. Phillips tells me that this is the only service that is available north of the 58th latitude, right?

Mr. BYRNE. Correct.

Senator STEVENS. And you are going to take it out.

Mr. BYRNE. We are proposing to take it out.

Senator STEVENS. That is the very area where we have a potential $2 billion fishery.

Mr. BYRNE. We would be able to give you, in the same period of time, roughly one-half of the data with one satellite.

Senator STEVENS. What is the cost of that?

Mr. BYRNE. About $20 million this year and about $34 million in 1984.

Senator STEVENS. How long has the other one been up and what was the cost of putting it up?

Mr. BYRNE. We have two that are active. One apparently has been in orbit for 34 months, the second one has been in orbit 8 months.

Senator STEVENS. What is going to pick up those monitoring devices for search and rescue both on land and at sea north of the 58th latitude?

Mr. BYRNE. Well, the search and rescue instrument is an experiment at this point. We have not done it on an operational basis. This is also a program in which I believe we cooperate with other nations. It will result in some delays with respect to the experiment by about 6 months.

Senator STEVENS. Will the second one be available? I thought you were cutting it out.

Mr. BYRNE. The second orbiting satellite will be cut out. We will still have one orbiting satellite.

Senator STEVENS. What you are saying is there is not going to be any redundancy at all in the system, we totally depend on one satellite rather than two.

Mr. BYRNE. That is right. Satellites will be launched on an 18-month period, given that the average lifetime is about 2 years. Now, this means that we have two satellites in orbit for a period of 6 months. If the satellite should fail for some reason, we have an agreement with NASA to put up a second satellite in a period of 120 days.

FUR SEAL PROGRAM

Senator STEVENS. I don't know. I am going to have to get out your budget. We rode herd on your budget for so many years and kept it very conservative. Now it is being cut more than those that ballooned all over the place. I think we should try to keep NOAA within some reasonable bounds but I just don't see the direction of this budget at all. I am told now that the fur seal program is slated for a phaseout over the next 4 years, is that right, in terms of Federal expenses?

Mr. BYRNE. Yes; we are attempting to transfer this to the State of Alaska.

Senator STEVENS. Why? It is a Federal treaty. It is a national treaty.

Mr. BYRNE. Part of our general philosophy is to hand it over to those States that can do as well.

Senator STEVENS. Are you going to have the State make and negotiate the treaty next time?

Mr. BYRNE. No; the whole treaty needs to be reexamined. We see the support of the Pribilof Islands residents as something which the State could take over. We would assist them in the transition.

Senator STEVENS. We didn't enter into that treaty to protect the Pribilof people, we did it to protect the fur seals, and before we had the treaty there was pelagic sealing. My God, one of the greatest stories in the whole legal provision is where we went out and seized the fishing vessels and pulled them up on shore and burned them. Did you know that? We went to the international court of justice and lost. We then said we are still going to keep pelagic sealing out of our area and that is what led to this international treaty. It was a national policy, it was not a State of Alaska policy. For all the years when the Pribilof people sat there and watched the residents of what we call the south 48 come in and administer that treaty there was tremendous support in the Nation.

As soon as the Pribilof people themselves did the work that was necessary they were criticized for the manner in which they have to harvest the seals. Now it has suddenly become a sort of welfare program for the Pribilof island people. It used to be under Interior when I was with Interior and they did not have one of those jobs except custodian. Over a period of about the last 8 years we put them in a position where they have employment and now it is viewed as a welfare program for the Pribilof island people. It is not a State of Alaska responsibility. The surest way to abandon the Federal goal against pelagic sealing is to turn it over to the State of Alaska and let us tell the world and the balance of the Nation that the fur seal harvest should take place. Is this the concept, that we are going to abandon the fur seal harvest?

Mr. BYRNE. No; it is an indication that we think the State should have the capability and the opportunity to administer the program.

Senator STEVENS. Who is going to negotiate the next treaty?

Mr. BYRNE. I am sure it will be negotiated in part by the National Marine Fisheries Service and the Department of State, as are all our other treaties.

Senator STEVENS. Do you know of any other State that is asked to pick up the tab on a Federal treaty? Tell me just one other State that is asked to pick up the cost of administering a Federal treaty.

Mr. BYRNE. I don't have an answer to that question, sir.

Senator STEVENS. Well, you know, after having fought these people who don't understand the fur seal treaty now for 14 years I find the administration I support does not understand it either and that one really infuriates me. I am going to advise my State not to pick up the cost. We should not do it, it is an international obligation and we should not

have it. It is either a national obligation or we should not have the treaty. We will never be able to defend ourselves against the onslaught of the international environmental movement plus the other three nations involved that fought the treaty in the first instance.

The only way that we ever brought them to a treaty was to seize their fleets. Are you prepared to seize fleets of anyone involved in pelagic sealing?

Mr. BYRNE. We cooperate with the State of Alaska in the management of the natives on the Pribilof Islands.

Senator STEVENS. Again you are convinced that it is something for the Pribilof people, it is just an employment opportunity, right?

Mr. BYRNE. No; I think there are two aspects to it. From our perspective there is the aspect of the fishery itself. The other aspect is the support and maintenance of that community of individuals who assist in the harvest of those animals.

Senator STEVENS. There is no cost that is involved in the support and maintenance of that community that is not associated with the fur seal treaty. We are not paying a stipend or something for not working.

Mr. BYRNE. My understanding is that we support a number of the interests and a certain percentage of the infrastructure that does support those natives during the period when they are not harvesting the seals.

Senator STEVENS. You are talking about the powerplant that was built for the Fish and Wildlife people that stayed, you are talking about maintaining the Government buildings which were there prior to the time they took over the job. You are, in effect, saying as long as the natives are doing the job we don't have to pay them what we would pay anyone else and so the Federal Government is going to wash their hands with respect to processing fur seals.

Now I am going to oppose that and I do oppose it. As far as I am concerned you can do away with the treaty before I will see my State take it over because you are sounding the death knell on the fur seal treaty. Congress will not support it if it is a State activity.

Mr. BYRNE. I appreciate your view.

Senator STEVENS. I am going to stop supporting the Department of Commerce unless you understand what is going on up around my State. The amount is insignificant in terms of money but it is the Federal commitment that is involved in the future of the fisheries and the future of those seal stocks that are dwindling. I see no reason for that change of policy and I am seriously telling you I am not going to support the policies of the Department of Commerce unless they understand the problems in my State.

Mr. BYRNE. Yes.

Senator WEICKER. Support the chairman and NOAA is going to be all right.

Senator STEVENS. Yes; the chairman is going to have my proxy. You can tell the Department that the chairman is going to have my proxy and unless those policies are changed, and changed this year, they are going to have a tough challenge from him. So you are between a rock and a hard place.

Mr. BYRNE. Yes, sir.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. First I want to say that there are a whole series of questions submitted for response to the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

Sea Grant

In the proposed termination of Sea Grant, what studies (or parallels) does the Department of Commerce know of that will guarantee industrial and/or private sector support for the funding of the program--as suggested by the Administration?

No formal studies on this subject have been done. We expect, however, that where Sea Grant has significantly benefitted states and industries, the states and industries will choose to support the program.

Last year I wrote to Secretary Baldrige and suggested that the Department of Commerce look at the economic efficiency of the Sea Grant program. What consideration was given to that suggestion?

The Department did review the record of the Sea Grant Program relative to its economic impacts and concluded that it had been successful in that regard.

What are the impacts on universities of the withdrawal of Federal funds for the Sea Grant program--assuming States and industry are unable to pick up the funding in such a short time frame? (Seek university impacts, student impacts, industry impacts, and the total services lost to the nation.)

The impact would not be as sudden as the budget process might seem to imply. Most FY 1982 grants will be used to support activities actually carried out in FY 1983. Thus, there would be a somewhat longer lead time in which to increase state, local, and industry funding.

How was it determined that Sea Grant had fulfilled its objectives or to quote your testimony in the House of Representatives that the program is "fully mature and capable of carrying forward on (its) own"?

The Sea Grant program has now developed a nationwide network of approximately 200 educational and marine institutions geared toward problem-oriented maritime research, manpower training, and advisory services. The sixteen institutions which have achieved Sea Grant College status are distributed in all coastal regions and have research and advisory service programs focusing on both the Atlantic and Pacific coasts, the Great Lakes, the Gulf of Mexico, and the ocean waters off Alaska and Hawaii.

There are only 16 Sea Grant colleges--with 34 coastal States and territories. The U.S. has recently increased its jurisdiction out to 200 miles--an area of ocean almost equivalent to the land mass. Are these facts consistent with a program described as of only local, State, and regional benefit and of a completed mission?

Yes, there is no need to have an institution with Sea Grant College status in every coastal state. Most coastal states have Sea Grant programs. Research and development activities in the U.S. waters beyond states jurisdiction are the primary responsibility of NOAA

programs other than Sea Grant and of other Federal agencies, such as the Department of the Interior.

Is there adequate State and academic support without Federal involvement and finance for research such as on the pathology caused by pollution in commercial and recreational fish and shellfish, consequences of habitat alterations and other perturbations in estuarine systems? (Such as the work conducted at the NMFS Lab in Oxford, Maryland.)

Currently, considerable state and academic support exists, for example, in the form of Sea Grant matching funds, for the research topics you mention. In addition, there will continue to be Federal efforts in these areas, particularly those research activities conducted by NMFS and other Federal agencies involved in marine pollution research.

Aquaculture Activities

The Administration proposes to terminate all aquaculture research and development and RIF 68 employees in the process. In your justification you anticipate that industry will assume the investment in aquaculture. By what basis do you anticipate that industry is ready to do this; please be specific?

The industry should determine through its own risk analysis whether or not to invest in the development of aquaculture for individual species of fish and shellfish. It is the Administration's position that the economic incentives for the culture of high-value species plus ongoing industry involvement (e.g., Ralston-Purina and Coca Cola) argue against further government involvement.

Do you really believe that industry will fund the Kemp Ridley Turtle Recovery program?

No. However, the turtle excluder trawl recently developed by NOAA, if introduced into industry as a standard fishing gear, would reduce the incidental mortality for all sea turtles. A reduction in the incidental mortality of Ridley turtles would help to facilitate their recovery.

If the private sector is capable of assuming responsibility for aquaculture, why hasn't the USDA terminated their aquaculture programs?

We are not familiar with the details of the Department of Agriculture's budget. However, it may be that aquaculture has a relatively higher priority in their program mix than in ours.

How many laboratories and field stations will be closed or severly affected by the termination of the aquaculture program?

The Galveston, Texas Laboratory as well as the Manchester, Washington, Little Port Walter, Alaska, and three smaller field stations would be closed by terminating the aquaculture R&D program. The Milford, Connecticut, and Newport, Oregon, facilities would also be impacted by this action.

Ship Operations

The Administration proposes to decommission two more ships including the SURVEYOR. Additionally several ships will have their sea time reduced from 243 to 180. It appears that NOAA which had 28 full-time vessels several years ago is moving towards a land-locked agency. Please respond.

In an effort to comply with the Administration's policy to reduce Federal spending, NOAA has recommended the layup of the FERREL and SURVEYOR as well as a reduction in the operation of the fisheries research vessels MILLER FREEMAN, ALBATROSS IV, OREGON II, DELAWARE II, DAVID STARR JORDAN, TOWNSEND CROMWELL, and the oceanographic research ship RESEARCHER. The priorities of the programs which the vessels support relative to overall NOAA priorities were taken into account, and there was an attempt to lessen the impact by distributing the reduction in fleet support across the Office of Research and Development, the National Marine Fisheries Service, and the National Ocean Survey.

Why are all but one of the ships which will be reduced in days at sea fishery research vessels?

While a significant proportion of the reduction being taken in the NOAA fleet is associated with the six fishery research vessels referred to, we are also laying-up a Class I oceanographic research vessel and a Class IV circulatory survey ship. In spreading the NOAA fleet reduction among the various ships, careful consideration was given to the program reductions being proposed in other NOAA programs.

Research

After studying the list of terminations and severe cuts of NOAA's programs, I am overwhelmed by the obvious impact these will have on NOAA's research capabilities. Does this mean that NOAA is going out of the research business?

NOAA is definitely not going out of the research business. To conform spending in accord with the President's Economic Recovery Program, NOAA did take a hard look at its research and development programs as well as other programs to determine those which are really central to its mission. NOAA is proposing program enhancements for research related to acid rain and deep sea metals (polymetallic sulphides). Other NOAA research is aimed at improving its basic services function.

I believe that marine research has always taken a back seat in NOAA's priorities. Now with the proposed cuts, how do you expect to carry out your responsibilities without a solid scientific data base?

Although the oceans have sometimes been perceived as taking a back seat in NOAA's priorities, NOAA's proposed reorganization seeks to enhance the agency's focus on oceans by creating a major line organization, the "National Ocean Service," under the leadership of an assistant administrator.

NOAA's FY 1983 budget will continue valuable oceanic research, e.g., on the role of the oceans in climate, the effects of pollutants on ocean ecosystems, and marine prediction research. In addition, NOAA proposes an increase for research related to deep sea metals, a potentially significant ocean resource.

Ocean Pollution Research

NOAA recently issued its second five-year plan for ocean pollution research as required by the Ocean Pollution Planning Act. The plan states that "marine waste disposal is one of the most important areas of Federal research, recommending that industrial and municipal waste receive primary attention.

It is widely assumed that increasing amounts of wastes will be dumped into the ocean in the future although the assimilative capacity of the oceans to handle some of these wastes is not known. In view of the present gap between scientific knowledge and management capability, why does the NOAA budget call for the termination of most ocean dumping research?

NOAA has sufficient statutory flexibility in marine pollution funding under Section 202 of P.L. 92-532 and Section 6 of P.L. 95-273 to permit high priority ocean dumping research tasks to continue even with the total elimination of the Section 201 appropriation.

Satellites

The NOAA budget proposes to go from a two 2 Polar Orbiting Satellite System to a 1 Polar Orbiting System with a FY 1983 savings of $34 million. We are all interested in saving money. The question is what are we giving up? What information will not be available as a result? Will weather forecasts be less accurate or timely? Will coverage be available in the event there is a launch failure? Is there any back-up provision to use Defense Satellite data?

With the one polar-orbiting spacecraft, there will be approximately 10 to 15% of the equatorial belt, from 35N to 35S latitude, which cannot be usefully observed. From a single satellite this area, composed of 14 cigar-shaped patches between adjacent satellite passes, is observed at an extreme angle that reduces the usefulness of the data. This is not a serious problem for the quantitative data - temperature soundings and sea surface temperature - provided to the Weather Service for their models, but it will somewhat reduce the quality of the image data that support programs such as AgRISTARS.

We believe that by maintaining a polar satellite that orbits in the afternoon we can continue to develop numerical models that are essential to a high degree of reliability of our predictions for the Continential United States.

The DMS satellites fly at the same altitude as NOAA's polar orbiter but at different orbital angles such that they pass over the equator at different times. NOAA did consult with DOD before submitting its FY 1983 budget.

Saltonstall/Kennedy

On page 37 of the NOAA budget under Financing From Proposed Transfers, I see we are again transferring funds from the Promote and Develop Fisheries Account (S/K). Rather than go through this exercise every year, why don't you propose legislation to eliminate this separate S/K fund once and for all and establish a permanent program in the Operations, Research and Facilities appropriation?

Though I fully support S/K fisheries development program, I feel the Administration should stop trying to back-door funds out of this account. If they are serious about not using the funds in this account for which they were intended, legislation should be submitted requesting termination.

The 1983 budget does establish a permanent program in OR&F totaling $2.7 million. This program is contained in the Managing and Using subactivity's fisheries development research and services line items ($800,000) and the quality, safety, and consumer services line item ($1,900,000). As for proposing legislation to eliminate the separate S/K fund, this is an alternative the Administration might explore.

Fishing Vessel Obligation Guarantee Program (FVOG)

As part of the Presidential effort to control Federal credit activities, a limitation of $50 million was established for loan guarantee commitments under the FVOG Program (Federal Ship Financing Fund) for FY 82, and a limitation of $25 million is being requested for FY 83.

How effective has the FVOG Program been in modernizing and expanding the commercial fishing industry fleet?

Segments of the commercial fishing fleet have both modernized and expanded considerably in recent years. Modernization and expansion in the industry are basically a function of the influence of economic and technical opportunities upon investment decisions. We do not believe the presence or absence of the FVOG Program is an overriding factor in these investment decisions.

How does NOAA determine the program's effectiveness?

The FVOG has been effective in providing a viable alternative to conventional financing for segments of the industry who are unable to obtain conventional loans.

What factors are considered?

NOAA considers such factors as the net worth of the applicant, type of vessel to be constructed/reconditioned and the economic attractiveness of the fishery for which the vessel is suited.

What percent of the U.S. fishing fleet is assisted under the FVOG Program?

The FVOG program finances about 12 percent of all new fishing vessel tonnage built in the U.S.

What impact will the substantially reduced funding level have on the fishing industry, particularly the smaller operators who only own one or two vessels?

Reduced levels of guarantee authority under the FVOG will result in fishermen having to rely more heavily on conventional financing for their new production equipment. However, by 1984 it is expected that the state of the general economy (and the credit market) will have improved -- thus making available more capital for the fishing industry at reasonable interest rates and maturities.

I understand that the default rate under the FVOG Program is less than 3 percent. I also understand that the Fisheries Loan Fund was used primarily in 1981 to provide temporary assistance for up to a year to keep shrimp fishermen in the Gulf area from defaulting on loans guaranteed under the FVOG Program. In view of the problems in the Gulf shrimp fishery and anticipated problems in certain other fisheries (such as king crab), do you expect the default rate under the FVOG Program to increase in future years?

Certainly, if economic problems persist in major fisheries, the FVOG program default rate could remain at current levels or increase. It is difficult to accurately predict default rates several years in advance.

If so, would you expect the Federal Ship Financing Fund to cover the anticipated defaults without having to borrow from the Treasury?

The adequacy of the FSFF to cover future defaults is obviously contingent on future default rates which, as noted above, are difficult to predict years in advance.

How will the funds be allocated between vessels and shoreside facilities?

We are now reviewing the question of how to best allocate these funds.

NOAA and the Department of Commerce are still interested in helping the domestic fishing industry. Is this statement true and if so, why do you propose to virtually terminate the S/K program for fiscal year 1983?

The 1983 budget establishes a $2.7 million in-house S/K program for fishery development. The S/K industry grant program is being proposed for termination because the program primarily subsidizes the fishing industry. Under the President's economic recovery program, the incentives for development are provided in the market place and the fishing industry will develop where the incentives exist. However, the Government will continue to assist the industry in areas such as international trade negotiations, export market development, and quality and safety.

The S/K program is very popular with the commercial fishermen allowing their direct involvement with NOAA to improve the industry.

How do you hope to maintain this working relationship without the S/K program?

We are now working on a new development policy which will involve the industry, states, and the Regional Fishery Management Councils in a partnership to coordinate continued development of the U.S. fishing industry. This along with our financial assistance programs enforcement programs and management and conservation programs, will help insure the continued availability of stocks for the U.S. fishing industry to harvest.

Commercial and Anadromous Grants

Once again the Administration proposes to terminate grants to States to conduct research on anadromous species and species found in inshore waters. Considering that at least 60 percent of all domestic catches are made in the territorial sea, how can you justify the termination of these important programs?

These grant programs are being proposed for reduction under the President's policy of terminating categorical grants. A large portion of these funds are used by the states to conduct programs which are in fact more appropriately state responsibilities. NOAA plans to maintain an overall resource assessment and information development capability necessary to support Federal management responsibilities in the fishery conservation zone and international negotiations and agreements.

Have any State representatives indicated that they are willing to take over these grant programs?

NOAA has not formally contacted the affected states to determine precisely how many states are willing to pick up the activities that are eliminated due to budget reductions. In April of this year, we are hosting a meeting of State Fish and Wildlife Agency Directory and we will pursue this issue at that time.

What funding alternatives do you believe possible for the commercial and anadromous grants?

Although specific funding sources have not been identified, alternatives include general state and local revenues, Federal block grants, Federal revenue sharing, academic research funds, and assessments to industry and other direct program beneficiaries.

NEXRAD

The future of the national weather service depends on its ability to modernize and maintain a national weather network which provides accurate and timely information to populated areas. Why are you recommending a $1 million reduction in the NEXRAD program which would cause a 3-year delay in the planned completion of this system?

All programs in NOAA were assessed for reduction potential and the effects of a reduction were weighed against national interests and priorities. The final budget proposal reflects the judgements made

in that context. The $1 million proposed reduction does not decrease service to the point that it affects public safety, but instead allows the program to continue at a reduced level that lengthens completion of NEXRAD implementation.

Has this postponement been coordinated with the Departments of Defense and Transportation? What has been their reaction?

Both the Department of Defense and Department of Transportation have been apprised of the proposed budget restrictions in NOAA. These Departments have also proposed reductions in NEXRAD for FY 1983 and FY 1984. Since all three agencies perform essentially the same role in the NEXRAD program, reductions taken by each agency will not result in elimination of agency-specific NEXRAD features, but will rather delay system completion as a whole for 2 to 3 years.

While there are $1 million in anticipated savings in FY 1983, how much more will this system cost to complete in the outyears?

Since effects on costs ten years hence are contingent on a wide variety of economic factors which cannot be predicted with confidence, we cannot provide an estimate of the long-term funding effects of the proposed reduction. The reduction was proposed, however, in the expectation that the savings achieved now will not significantly impact the outyear cost-effectiveness of the program.

Hawaiian Monk Seal

Does NOAA see conflict in its being involved with fishery development in the Northwestern Hawaiian Islands (e.g., 1978 Tripartite Agreement) while trying to protect Hawaiian monk seals which live there and are shown to be extremely sensitive to human disturbance associated with fishery development?

No. In fact, this should permit us to help guide development in such a way as to avoid conflict with the monk seals.

What is the status of the 1980 Draft Environmental Impact Statement on Critical Habitat? Why hasn't a Final Environmental Impact Statement been issued?

Notice of availability of the DEIS was published in the Federal Register on March 7, 1980. NOAA decided to delay preparing an FEIS pending the Hawaiian Monk Seal Recovery Team's completion of the Recovery Plan.

Is the NMFS considering protective regulations in addition to Critical Habitat? If not, why?

Yes, NOAA will rely heavily upon those protective measures recommended in the Recovery Plan.

What is the status of the Hawaiian Monk Seal Recovery Plan?

The Final Hawaiian Monk Seal Recovery Plan is expected to be completed by June 30, 1982.

Specifically, have you generated material to implement a public education program?

NOAA is in the process of developing and implementing a public education program. Two activities are planned this fiscal year in cooperation with the State of Hawaii. (1) A workshop will be convened with all agencies having the potential for interacting with monk seals (i.e., Navy, Coast Guard, Fish and Wildlife Service, Hawaii Department of Natural Resources, Sea Grant, etc.) to identify interaction problems, to review existing regulations, and to develop guidelines for minimizing such impacts.
(2) Following this workshop, NOAA will develop appropriate information and educational materials for distribution.

How successful is the Kure Island pup rehabilitation program?

The results of the 1981 study indicate that predation is the probable cause of pup loss at Kure Island and that a temporary captive maintenance effort is the only reasonable method available at this time to increase pup survival. NOAA will continue this project during 1982.

What is the status of the $400K Congress directed NOAA to spend on monk seal studies?

NOAA is planning to fund this program at the recommended level and intends to implement all provisions of the Monk Seal Recovery Plan. We are currently in the process of implementing this research program.

Marine Mammal Program

In a May 1981 report, GAO discussed the slow progress and problems of Federal and State efforts to help ensure the protection, conservation and, in some cases, recovery of marine mammals. GAO recommended a number of actions to improve the regulatory agencies' administration of the program and more satisfactorily meet the Marine Mammal Protection Act's objectives and goals.

What has NOAA done in the past year to improve the program's effectiveness?

The GAO report contained two recommendations for the Department of Commerce. One concerned the return of marine mammal management to State jurisdiction; the other involved efforts to accomplish species recovery for the endangered Hawaiian monk seal.

During the reauthorization of the Marine Mammal Protection Act, NOAA worked with the Committees in identifying amendments which would clarify terms, increase management flexibility, focus responsibilities, and modify conditions for returning management to the States.

Since the October 1981 amendments, we have coordinated with the Department of the Interior, State agencies, and the Marine Mammal Commission to minimize delays and increase joint Federal responsiveness to anticipated renewed State interest in return of their marine mammal populations to State management.

We are now developing regulations which will facilitate a return to State management. These regulations will provide procedures for the transfer of management authority, delineate the form and minimum requirements of a State application, define the relationship between Federal and State wildlife agencies, both prior and subsequent to transfer of management authority, and provide procedures for revocation of State management authority.

With regard to the Hawaiian monk seal, the Recovery Team has completed the draft recovery plan and NOAA is using recommendations of the recovery team in designing and implementing an effective conservation and protection program. NOAA has also expanded this research program in FY 1982.

This research will: enhance survival of female seal pups at Kure Atoll; provide data to assess seal habitat needs at an extensive reef environment; develop correction factors for estimating populations from beach censuses and pup production for aerial surveys; provide estimates of the monk seal population in the western half of their distribution; provide data on the effects of tagging which may permit expansion of a tagging program in 1983; provide an estimate of total pup production for the 1982 season; and, provide data for a summary report of monk seal food preferences by island. Both the monk seal die-off response plan and recovery plan will be completed this year.

Capital Construction Fund

Will NMFS continue to assist the industry through the Capital Construction Fund (CCF)?

Yes. The Capital Construction Fund is a tax incentive program, rather than a direct industry assistance program. The CCF allows fishermen to defer payment of Federal income taxes on funds deposited in local financial institutions for purposes of buying, building, or reconstructing fishing vessels.

Does NMFS favor extending the CCF to shoreside facilities?

This issue is under consideration. Extending the Capital Construction Fund to shoreside facilities could provide a significant boost to fishery development, particularly in those areas where a lack of adequate shoreside processing facilities is delaying full use of available fishery resources.

Severe Storms Research

Recently National Weather Service officials testified before the Senate Environment and Public Works Committee, Subcommittee on Environmental Pollution, that barrier islands along the East and Gulf Coasts are highly vulnerable to damage from severe storms. According to the officials, in the 20 or 30 years since any major hurricanes hit a heavily populated island, the barrier islands populations have skyrocketed, making the next hurricane to strike a populated island likely to be the nation's single worst disaster. Why then is NOAA proposing to eliminate the Stormfury hurricane modification program, eliminate most research on severe storms,

terminate basic research and associated activities on the modification of convective clouds and reduce research flight services?

NOAA remains concerned about the growing vulnerability of our coastal populations to hurricane and is continuing research in this area. The programs we have proposed for elimination or reduction are lower priority efforts; for example, NOAA has already decided to shift the STORMFURY projects emphasis from actual hurricane seeding to theoretical research, because the STORMFURY hypothesis had not been borne out empirically and it moreover appeared unlikely that it would be politically feasible to undertake more hurricane seeding experiments in the near future. While eliminating such less productive efforts, however, NOAA intends to continue work on high-priority hurricane prediction research. In FY 1980, we initiated an 8-10 year project called Hurricane STRIKE whose objective is to improve prediction of landfalling hurricanes. This initiative supplemented a base program in hurricane research to better understand the storms, to improve numerical modeling capabilities, and to understand changes in storm intensity and track. Expected benefits from the Hurricane STRIKE research include (1) improved 24-hour predictions of time and place of hurricane landfall and, therefore, more accurate warnings for the affected populations; (2) reduction in the costs of over protecting inhabited coasts; (3) new prediction products such as storm surge models and charts of wind damage potential and flood potential; and (4) improved understanding of changes in hurricane motion, intensity, and structure as a result of the storm's approach to land.

Space Environment Laboratory

The Space Environment Laboratory in Boulder, Colorado, has been targeted for a 61 percent reduction in funding to a level of $2.0 million. The solar-terrestrial data base maintained by the Laboratory is important to the defense, NASA, and telecommunications communities. It is my understanding that the basic data that this laboratory produces is vital to the users; and, should work be terminated at Boulder, the information would have to be generated elsewhere. Has any consideration been made as to how much it would cost to get this information from other sources?

NOAA plans to continue to provide solar-terrestrial data, forecasts and warnings at a reduced level; hence, there has been no need to determine the cost to users of obtaining this information elsewhere. Duplicate sources would, however, be likely to be considerably more costly than is the single national service now provided by NOAA. The decrease proposed in NOAA's service will reduce the frequency of provision of some real-time solar-terrestrial information and will reduce supporting research.

Nautical and Aeronautical Charts

NOAA's pricing of nautical and aeronautical charts is limited under Public Laws 88-441 and 91-412 to recovery of those costs associated with the printing and dissemination of chart products. Data acquisition, data base maintenance, chart compilation, and negative engraving are funded by congressional appropriations. The Admini-

stration's budget proposes that prices for nautical and aeronautical charts be increased to recover full program costs by 1985. By this time, nautical and aeronautical charts would be financed through a self-supporting revolving fund.

Has any market analysis been done to determine whether the revolving fund could successfully finance nautical and aeronautical chart production at current levels?

No market surveys have been conducted. The trust fund, as presently constituted, recovers only printing and distribution costs. Estimates of future funding requirements indicate that a tenfold increase in receipts for full funding of the nautical chart program at current production levels and a doubling of receipts for full funding of the aeronautical chart program at current production levels would be necessary. The proposed phasing in period during FY 1983 and FY 1984 will enable NOAA/NOS to better determine the feasibility of full cost recovery by increased chart prices.

Have alternatives for financing chart production been explored? For example, what consideration has been given to financing chart sales through excise taxes?

Alternatives were explored and rejected because they failed to allocate costs of service to the particular users of these services. For example, excise taxes have not been proposed as an alternative by the Administration as they would shift the cost from specific chart users to all boat operators as a whole. The market forces which allocate the actual demand for charts would thereby be dampened and cross-subsidization of chart purchasers by non-chart users in the marine community would result.

How do foreign governments finance their production of nautical and aeronautical charts?

Production of nautical charts in many foreign governments is accomplished by the naval hydrography component of the national defense forces. Charges for printing and distribution are customarily included in the chart prices, as is the case in the United States, with the exception of the United Kingdom which includes compilation costs in their selling prices. Information on aeronautical chart financing is only available for Canada and the United Kingdom. They both charge for printing and distribution and in addition, the British charge for minor revision.

At present, NOAA's nautical and aeronautical charts are relatively inexpensive. All charts sell for under $10. Would chart prices have to be raised to achieve full cost recovery? If so, to what levels? If prices are raised, how would this affect the demand for charts?

The public presently pays $4.50 for nautical charts. Prices for the most popular aeronautical charts presently cost the public from $2.25 to $2.35. Nautical chart prices would have to be raised by FY 1985 in excess of $40 apiece for public users to achieve full cost recovery, assuming no reduction in current sales volume. A 50% reduction in sales volume would result in an approximate doubling of these price estimates. Aeronautical chart prices would have

to be raised from $4.37 to $12.06 for public users, assuming no reduction in present levels of demand.

If higher prices discouraged the purchase of current charts, would this affect national boating and flying safety?

It is extremely difficult to estimate the effect on navigation safety if chart usage by the public were to be curtailed because of higher prices. Lesser impact is expected on aviation safety because of the smaller increases expected in aeronautical chart prices and the potentially catastrophic consequences of flying without charts or flying with outdated charts. Regarding marine safety, the impact of higher chart prices is impossible to predict and depends on such factors as knowledge of local waters, feasibility of using alternate map products, and competence of boat operators.

Currently NOAA's nautical and aeronautical charts are not protected by copyright. Without such protection, it is possible that rising chart prices may encourage private groups or individuals to reproduce and sell these charts at reduced rates. Is it likely that such unauthorized chart reproduction will erode NOAA's chart sales? Has the possibility of obtaining copyright protection been investigated?

Yes, the possibility of obtaining copyright protection has been investigated and will be sought in legislation authorizing full chart cost recovery. It is NOAA's intention to make dissemination of navigation data as widespread as possible; however, copyright fees in the case of nautical charts may be high because of the need to recover full preprinting costs. Seventy percent of the cost of a nautical chart is incurred through the hydrographic data acquisition activities of NOAA vessels. The value of this data must be reflected in the copyright charges levied upon private map companies if copyright is to be effective.

Sea Grant Program

Recent critics have stated that Sea Grant projects appeared to have limited application and research results are of little use to the "identified user community". Also, project results are not communicated or disseminated to parties outside the Sea Grant institutions. What has NOAA done to ensure that Sea Grant projects address the day-to-day problems and needs of the marine community and meet the expected goals and objectives of the program?

Sea Grant institutions have been advised of these findings and are working to correct them. NOAA is phasing out its administration of the program for it has essentially achieved its goals and should now be the responsibility of the individual states.

Great Lakes Environmental Research

There are 20 Federally supported facilities in the Great Lakes region currently involved in Great Lakes Environmental Research.

All of these research efforts would be eliminated under the proposed reductions in NOAA and EPA budgets for FY 1983. The Great Lakes have been subject to extensive pollution due to the concentration of population centers and industry around their shores. The key focus of research efforts has been the determination of the consequences of this pollution on human health and the environment.

There are numerous scientific questions needing resolution in order to effectively manage and protect this vital international resource. In the 1978 Water Quality Agreement, both the U.S. and Canada pledged to intensify their research efforts toward this end. How will existing international obligations be fulfilled if NOAA activities are terminated in this area in the upcoming year?

With the termination of the NOAA research activites in the Great Lakes area, NOAA will not be able to fulfill a role in support of the existing international obligations. However, we believe that with the reduced overall Federal activity, the states in the region and the universities will strengthen their efforts concerning the long-term effects of man-induced changes in the Lakes. The research of the states and the universities combined with the ongoing efforts of the Canadians should, we believe, maintain the capability to focus on lake-related problems such as pollution and to further our understanding of the ecosystem of the Great Lakes basin.

Agricultural, Fruit Frost, and Fire Weather Programs

There has been considerable public concern over the proposed elimination of agricultural, fruit frost, and fire weather programs. It seems to me that the most important issue to keep in mind is whether regional information and forecasting technology is keeping pace with station closings to avoid troublesome gaps in local service.

In the case of agricultural, fire, and fruit frost weather programs, a variety of heavily used services will be terminated in FY 1983 without compensatory regional coverage. Do you perceive these services to be truly expendable? How can this be justified?

The agricultural, fire, and fruit frost programs provide useful, if not critical, weather information "tailored" to the specific needs of the users of these services. However, the decision to propose elimination or reduction of these programs involved many considerations.

An essential ingredient in the formulation of the Administration's budget proposals is reducing Federal expenditures and employment where possible and appropriate. First, the "core" mission is identified and preserved. In the National Weather Service, this is the basic warning and attendant forecast programs designed to protect the public. Then, the remaining programs are assessed to determine the degree to which they provide services to a specific user group and if these services would be more appropriately provided by the private sector or funded through user fees.

The agricultural weather program, including the fruit frost service and a portion of the fire weather program, provide services to

specific user groups. It is proposed that these services could be provided by a segment of private industry -- the private meteorologist. The user can purchase from the private sector only those services needed. General public warnings and forecasts which contain useful information to the farmer will continue to be available.

It is probable that cooperative associations representing groups of small farmers will assume financial responsibility for program services that suit the groups' needs. Farm groups in California and Florida have investigated the logistics of contracting for agricultural weather services.

Fire Weather Programs

The fire weather offices of the National Weather Service provide fire weather warnings on public forestlands and a host of meteorological services including prescribed burning, insect and disease control, reforestation and smoke management. Under the proposed budget, the fire weather program will be eliminated or substantially reduced at 20 offices throughout the country. Meteorological services will be eliminated at the 38 remaining fire weather offices because of the need to widen their geographic responsibilities. What do you expect the impact of termination of these services will be on our ability to maintain national parklands and forests?

Fire weather services necessary for the protection of life and property will be provided from NWS's larger forecast offices. The level of this service will primarily consist of daily forecasts for fire danger rating compulations, spot forecasts for wildfires, and on-site mobile unit support for very large, very dangerous wildfires. The specialized services for smoke management, prescribed burning, or timber harvest operations used by commercial forestry, industries should be obtained as needed by the industry from private meteorologists.

Agricultural Weather Program

I understand that the Agricultural Weather Program of the National Weather Service is one of the most cost-effective NOAA programs. It is proposed for termination for a savings of $1 million, while it produces agricultural benefits estimated at tens of millions of dollars. Small farmers throughout the country have been able to produce larger yields with the aid of this information. Did you consider cost-effectiveness as a criteria for continuing or eliminating NOAA weather programs? What do you anticipate the effect of terminating this program will be on small farmers? What do you estimate the private contract expense for these services might total?

Cost-effectiveness was not a criteria for proposing eliminating selected NOAA weather programs in the FY 83 budget submission. The principle consideration was the overall effort to reduce Federal employment and expenditures yet preserve NOAA's capability to provide the warning and forecast services that directly affect the protection of life and property.

The farming community will have for their use the general public weather warnings and forecasts which are now made available to the mass media and others by NOAA Weather Wire Service and broadcasts over NOAA Weather Radio. Applied weather services are also available from private industry through the private meteorologist. The individual costs for private services would vary considerably depending on the kind of services required, the amount of services, and the length of the contract.

Fishery Conservation and Management

It is widely acknowledged that fishery "resource assessment" is a basic problem in developing fishery management plans under the Magnuson Fishery Conservation and Management Act. How much progress has NOAA made in its efforts to obtain better and more reliable biological, social, and economic data for stock assessment and fishery management?

While NOAA scientists are continually working to improve estimates of the status of fish stocks to make them more accurate and less costly to obtain, substantial progress has already been made since the passage of the MFCMA including the following three examples:

First, significant advance was made in 1981 at the Southwest Fisheries Center in their studies of the Pacific anchovy. Normally, the size of the adult fish stock is estimated by sampling the adult population. The new technique relies on a knowledge of the reproductive biology of anchovies coupled with surveys of the abundance of anchovy eggs in the spawning area. With this information an estimate of the size of the adult anchovy population can be made and will be be used to manage the anchovy fishery. We believe the egg biomass estimate is more accurate than the traditional estimate and should be less costly to obtain. The new technique may be applicable to other species. Second, NOAA is focusing more of its attention on multispecies research, i.e., the interrelationships of species as a basis for the development of ecosystems models as opposed to the traditional single species models. Such models will be a valuable asset to fishery management but their development will be a gradual process over the next few years. Third, prior to the MFCMA, the economic data collection activities of NOAA were directed primarily at the harvesting sector economics for a limited number of commercial fisheries. Since 1976, NOAA has responded to its new responsibilities under the MFCMA by diversifying and reassessing the priorities of its socio-economic data collection activities. NOAA has redirected its activities to include both the commercial and recreational components of fisheries subject to MFCMA jurisdiction. Economic data collection and analyses have expanded to include processing, distribution and consumption studies, while previously neglected sociological research has been initiated.

MARMAP

What will be the impact of the MARMAP reductions?

The principal impact of the proposed reductions in the MARMAP program will be to delay implementing management for certain fishery stocks not currently under management.

Considering problems of the past in considering fish stock levels, how do you expect to maintain even the current level of efficiency and accuracy?

This reduction in MARMAP is part of a general reduction in the rate of fishery management implementation which supports the President's policy of reducing the Federal regulatory burden on the American public. We believe the proposed reductions can be implemented without serious consequences, over the short term, to currently managed fisheries. It is NOAA's position that management should be extended to only those fisheries for which management is needed.

Regional Fishery Management Councils

The regional fishery management councils have had slow progress and many problems in developing and implementing fishery management plans. What impact will the proposed $3.3 million reduction in funds for councils' efforts to develop and implement fishery management plans?

Our present policy of limiting regulations to only those fisheries showing a clear need, means that the original estimate of some 80 fisheries needing regulation may be halved when the need is reevaluated using present standards (E.O. 1229). Moreover, as we use more framework plans, the number of amendments required will be greatly reduced. This will reduce the level of Councils' activities as they enter a monitoring and amendment role. Therefore, reduced funding should have a minimal effect on the Council's principal function under the Magnuson Act--the preparation of FMP's and amendments.

What types of council activities would be terminated or adversely affected by the proposed funding reduction?

A portion of both administrative operations funds and contract funds will be reduced. We plan to meet with the Councils in May 1982 to discuss how to distribute the reduction among them. Due to the reduction in fishery management plan activity, there will be fewer Council, Scientific and Statistical Committee, and Advisory Panel meetings than in the past. The meetings that relate to lower priority plans will be reduced more than those relating to critical high priority plans. Council funds for contracts will be reduced; however, NOAA will provide the data needed for the high priority plans wherever possible. It will also be possible for the Councils to reduce some of the day-to-day costs of operation by tightening up on travel, ADP, and other administrative items.

How will the councils operate more efficiently with less money as the budget justification implies?

The development of multispecies assessment plans plus the emphasis on managing only priority species will enable the Councils to carry out their responsibilities more efficiently and with less money.

Foreign Fishing Observer Fund

Section 236 of the American Fisheries Promotion Act (P.L. 96-561) requires, to the extent practicable, implementation of 100 percent observer coverage on foreign fishing vessels. The purpose is to improve compliance by foreign fishing vessel operators with U.S. reporting and catch quota requirements. The costs of the program are funded from fees collected from foreign nations for this purpose. Will this budget support a full 100 percent observer coverage on foreign fishing vessels in the U.S. FCZ?

The requested level will support overall observer coverage of approximately 65 percent with up to 100 percent for selected fisheries.

Since the cost of the observer program are fully reimbursed by foreign nations fishing in U.S. waters, why is the program subject to appropriations and limited personnel ceilings?

The American Fisheries Promotion Act of 1980 specifies that funds can be expended only to the extent authorized in appropriation language. Since the funds are appropriated and the program has Federal employees, they are therefore subject to overall resource ceilings.

Habitat Protection

Does the reduction in habitat investigations research imply that NMFS does not recognize the importance of habitat investigation in the maintenance of fishery stocks?

No. NOAA believes that fishery habitat investigations are important to the maintenance of fishery stocks. However, this proposed reduction is in concert with the expressed interest by state governments in assuming a greater role in habitat investigations.

How will you respond to environmental concerns that if the Federal habitat protection program were significantly reduced, the quality of habitat efforts would decrease because of lack of State standards?

No decrease in quality of Federal habitat conservation efforts will occur in those areas where our current program will stay intact. However, it is expected that initially there would be decreased quality of habitat conservation work in those geographic areas where significant cuts occur. This would be due to (1) current lack of staffing and funding in State and other Federal agencies; and (2) a lack of adequate habitat conservation policies and regulations in some States. However, we look to the States to assume habitat protection responsibilities as the habitats are principally located in their jurisdictions.

What would be the consequences should states decide not to conduct habitat investigation research?

These reductions can be implemented without serious consequences over the short term. If the states or other Federal agencies do not pick up this work, the information needed to facilitate coastal and ocean development while insuring the continued productivity of the living marine resources would not be available. NOAA approved Coastal Zone Management programs have been established in most coastal states, and will help to manage potential impacts on fishery resources.

TERMINATION OF AQUACULTURE RESEARCH AND DEVELOPMENT

Senator WEICKER. Now we can get to some of these before we have to go.

The administration proposes to terminate all aquaculture research and development and RIF 68 employees in the process. In your justification you anticipate that industry will assume the investment in aquaculture. On what basis do you anticipate that industry is ready to do this? Be specific.

Mr. BYRNE. We see some examples of industry interest already, particularly in terms of anadromous fish. I think that what we need is an assessment on the part of industry as to whether or not this is a wise investment. A lot of the fundamental research in aquaculture has already been done. A lot of it will of course continue to be done, but we do see opportunity for industry to become more involved here than they have been in the past. I cite only one example—salmon steelhead—aquaculture at the present time. Some of the larger food companies are becoming involved in aquaculture.

Senator WEICKER. If the private sector is capable of assuming responsibility for aquaculture, why hasn't the USDA terminated their aquaculture programs?

Mr. BYRNE. I am really not familiar with what the Department of Agriculture's budget is in terms of aquaculture. It may be a higher priority for them.

Senator WEICKER. The Fish and Wildlife Service has increased their responsiblity for aquaculture. I just don't understand why others are increasing their responsibility and NOAA is backing off on theirs.

Mr. BYRNE. Well, when we look at our priorities with respect to the total fisheries program, we see this as an area where greater private sector involvement is needed to enhance aquaculture development.

Senator WEICKER. How many laboratories and field stations will be closed or severely affected by the termination of the aquaculture program?

Mr. BYRNE. The Galveston laboratory and the laboratory in Manchester, Wash., I believe, would be reduced. There would also be an impact on Milford, Conn. I think in terms of aquaculture itself the primary impact would be on the laboratory in Galveston, Tex.

Senator WEICKER. I know it is no fault of your own that the administration is now proposing to terminate this program. However, please tell this committee if your undersea program has been useful in sup-

porting NOAA research efforts. What is the current status of the four regional undersea research programs in Hawaii, California, southeast coast, and the Virgin Islands?

Mr. BYRNE. I would like to submit an answer for the record on that, Mr. Chairman.

Senator WEICKER. All right.

[The information follows:]

NOAA UNDERSEA RESEARCH PROGRAM (NURP)

The NOAA undersea program has made a considerable contribution to the success of NOAA research efforts. Within NOAA, the program has directly supported scientific missions conducted by the National Marine Fisheries Service, national ocean survey, marine pollution program, environmental research laboratories, Coastal Zone Management program, and the sea grant program. While NURP is proposed for termination as it is less essential in the context of NOAA's overall mission, NOAA does intend to continue to utilize these underwater research facilities in the future for specific research programs.

Examples of possible future activities include: baseline studies in the pregas and drilling areas of Georges Bank; Pacific Ocean studies which include effects of large-scale dumping of manganese nodule tailings, sampling for drugs from the sea, and fisheries management; NOAA's fisheries management of living resources and their habitats off the Atlantic coast; acquiring of basic scientific information about the marine ecology and environments in U.S. coastal waters; broadening support of research efforts requiring advanced undersea facilities and capabilities; and enhancing researcher capability to successfully complete selected undersea tasks and to extend classical land based laboratory scientific methods and capabilities to the seafloor.

The current status of the four regional undersea research programs in Hawaii, California, southeast coast, and the Virgin Islands is as follows:

HAWAII

The program is presently conducting submersible operations off Mamala Bay, Oahu, doing research investigations of the Sand Island sewer outfall until April 20, 1982. The remainder of this fiscal year, research will be conducted on the Pearl Harbor dredge disposal, Oahu Barbers Point sewer outfall, fisheries resource investigations at the Penguin Bank assessing commercial harvesting potential and other research including drugs from the sea.

CALIFORNIA

The program is presently contracting for the final design of a temperature water habitat system to be used for conducting undersea research off the California coast. The contract package for construction plans will be completed in June 1982. Following reviews of the package, the procurement process will be initiated to contract for building the system in January 1983.

SOUTHEASTERN COAST

The program will become operational in April 1982. The support facilities for conducting the research are being prepared for certification. The *RV SEAHAWK* has been completely modified for supporting up to 10 scientists utilizing a new surface support diving system. A decompression system has been installed aboard ship and has received NOAA certification. The Virginia Institute of Marine Science and Duke University plan to conduct 60 days of science missions through this fiscal year.

VIRGIN ISLANDS

The program is presently conducting undersea research missions and will complete, by the end of this fiscal year, 17 saturation missions with over 100 participating scientists from 25 government and private institutions. These scientists will spend over 11,000 man-hours living and working on the seafloor. This research emphasizes acquir-

ing, via in-situ study, scientific information of coastal and tropical marine environments, marine resource assessment, man-induced effects on marine ecosystems and other valuable marine research.

TERMINATION OF NOAA PROGRAMS

Senator WEICKER. During the past 6 years I have studied the programs within NOAA and the Federal agencies in order to determine what research areas we were not properly addressing. Clearly this includes the coastal migratory fishery. This is also true of general oceanography on the continental shelf. The administration proposes to terminate what we have discussed and all congressional programs.

There is, as you know, a facility in Groton, Conn., that contains over 20 buildings in the strategically located land presently owned and operated by the university. I believe that Avery Point would be an excellent location to address the issues I just mentioned as well as any other marine related programs.

I would like to know from you, if requested by this committee, can NOAA conduct a thorough study of the potential of Avery Point as a marine center within fiscal year 1982?

Mr. BYRNE. Yes, sir, we can.

Senator WEICKER. Is this statement true and, if so, why do you propose to virtually terminate the program in fiscal year 1983?

Mr. BYRNE. This is a question of how we can best assist. One of the views that we have taken is that one way to assist industry is to turn over to them those things which they should probably be supporting on their own. We could see the incentives for development taking place in the marketplace and we think this is where the fishing industry should develop its incentives. We continue to assist them as best we can in programmatic areas such as international trade negotiations, export market developments, and product quality and safety.

Senator WEICKER. The administration proposes to close six major fishing labs, three minor labs, and eight salmon research units. What percentage of NOAA's total fishery laboratory capability do these figures represent?

Mr. BYRNE. I would like to present that for the record.

Senator WEICKER. All right.

[The information follows:]

LAB CLOSINGS

The total estimated dollar savings associated with these facilities represents approximately 9.6 percent of fisheries research capability.

Approximately $6.2 million and more than 100 personnel are associated with reductions in the fisheries laboratories and research units cited in your question. It is not possible to predict the actual number of personnel which will ultimately be RIFed. I am hopeful, however, that we can offer alternative opportunities within NOAA for many of the affected persons.

In general, State and local governments, industry, and academia are all expected to pick up some of the discontinued work.

FISHERY MANAGEMENT

Senator WEICKER. It is widely acknowledged that fishery "resource assessment" is a basic problem in developing fishery management plans under the Magnuson Fishery Conservation and Management Act. How much progress has NOAA made in its efforts to obtain better and more reliable biological, social and economic data for stock assessment and fishery management?

Mr. BYRNE. That is a difficult question to answer quantitatively. We have made substantial progress since the passage of the Magnuson Fishery Conservation and Management Act. We can provide a number of examples where we have made progress. In view of time we would be pleased to provide that for the record.

Senator WEICKER. All right. Fine.

SEA GRANT

John, let's get to sea grant now. As I said, my questions incidentally cover a wide range of your activity but I would say my overall concern is that the total reduction across the board of NOAA indicates a lack of understanding, on the part of the administration, as to the potential the oceans represent and just how far private industry is going to go in developing the national interest of the oceans. That concerns me in the overall, and needless to say I will be going over your budget very, very carefully in an attempt to preserve much of what is being proposed to be cut.

I will be glad to work with your people in the sense that I don't think we are going to accept the administration's figures and by the same token I don't want to slap a group of figures on you to which you have no input. I would suggest that in the weeks ahead you might want to work with my people, from the standpoint that we will be initiating. Knowing that is going to happen we might as well get your input into at least what your priorities are as we present them. So this is not going to be a matter of your figures but rather mine.

That brings us to sea grant where, to my way of thinking, we have gotten great advantage for the bucks in that the U.S. Government did not have to go chasing around setting up major facilities and getting a hold of the personnel to run those facilities. While this is for the higher educational system of this country, both in terms of bricks and mortar and in terms of minds, I cannot see this program being eliminated, I just can't understand it.

I want to give you a chance to respond again in whatever way you see fit. I understand your policy accords with the administration and more particularly the Secretary of Commerce, but I have a function to perform as does this committee. You should know that is of concern to me when I see you presenting an opinion which obviously you gave weight to which is at odds with my own.

Mr. BYRNE. I have said this in public before. The relationship NOAA has with the university community is an extremely important one. Certainly the sea grant program has been a very effective one. It has been innovative. It has developed a good advisory program which in my

judgment has been one of the major contributions of the sea grant program. From the total NOAA prospective we see the need for university interaction across the board, not just in the area of sea grant, but in the area of atmospheric sciences, and in the area of ocean activities which have not, in the past, been picked up by sea grant.

So philosophically, I don't think that the administration's position with respect to sea grant really represents a total attitude away from university involvement and university commitment. As I have mentioned to you before, we see the opportunities that sea grant has provided in the industrial sector. The private sector is another area where sea grant has made major contributions.

One of the thrusts that we are trying to create for the entire agency is a greater involvement with the private sector. We have taken deliberate formal actions to involve ourselves at the highest level possible with elements of those industries concerned about the ocean.

To reiterate, our university commitment will continue irrespective of this. I see a greater need for university commitment than is presently carried out by NOAA for two reasons. One is that the universities represent an optimum locus for the conduct of rather fundamental research in the area that NOAA is committed to. I also see the future of any agency or organization as being the quality of the people that are brought into the agency or the organization. We believe that by establishing very firm and very involved commitments with the universities, NOAA will have the opportunity to recognize and hopefully to employ the brightest graduates.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. John, I have questions from Senators Bumpers, DeConcini, Chiles, Schmitt, Cochran, Mathias, Stennis, Riegle, Hollings, Gorton, Andrews, and Huddleston which I would like to submit for response to the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Dale Bumpers

Agricultural Weather Program

It is my understanding that as part of an overall reduction in your agency, you intend to close the National Weather Service's Mid-South Agricultural Weather Service Center in Stoneville, Mississippi. For the current fiscal year this station has a budget of approximately $250,000 and 5 full-time employees.

This weather station provides valuable information to rice farmers in Arkansas, gives alerts to poultry growers in Arkansas on critical or unusual weather situations, and provides the rainfall and temperature outlook for 30 days in advance so that farmers can plan their operations.

More importantly, the station provided soil temperature forecasts for cotton farmers; crop evaporation for those irrigating crops, wind patterns for farmers who are spraying chemicals and dew forecasts when the harvest is underway.

Given the many benefits of this station, why is it being closed? Even taking into account the need to cut back on spending, aren't there other, less vital programs that can be cut?

In formulating the FY 83 budget, the principal consideration was the overall effort to reduce Federal employment and expenditures while preserving the National Weather Service's capability to carry out its central mission of providing the warning and forecast services that directly affect the protection of life and property.

In this context, NOAA identified programs that would be more appropriately funded under the user fee concept and programs that provide services to a specific user group which could be provided by the industrial meteorologists in the private sector. The Agricultural Weather Program provides services to a specific user group. It is proposed that these services could be provided by a segment of private industry -- the private meteorologist. The user of these services can purchase from private industry only those services needed.

One thing that disturbs me concerning the proposed closing of the Stoneville station is that many, many rice farmers in a three-state area will no longer be served. The NOAA Magazine (Winter 1982) contained an article on the Agricultural Weather Stations and noted that a computer model developed by the staff of the Stoneville station is used by 2,400 rice farmers in Arkansas, Mississippi, and Louisiana. This model is used by rice growers to decide when to irrigate, control weeds and pests and, in some cases, when to harvest. Given the fact that this weather station serves an area that grows two-thirds of the rice produced in the United States don't you think closing the station is ill-advised? If this station is closed, what are the farmers in the Mid-South area to do when they need long-range weather data which is directed toward their specific needs? Is there any other service operated by your agency in the area that can serve their needs?

General, public weather services provided by nine National Weather Service offices in that tri-state area will still be available to the farming community. These offices provide general public weather warnings and forecasts which are made available to the mass media

and others by NOAA Weather Wire Service and through broadcasts over NOAA Weather Radio. Applied weather services to meet any special or specific needs of the farming community are available from the private sector industrial meteorologist.

It is probable that cooperative associations representing groups of small farmers will assume financial responsibility for program services that suit the groups' needs. Farm groups in California and Florida have investigated the logistics of contracting for agricultural weather services.

The Department of Agriculture was notified and a full description of the services to be eliminated was given.

Questions Submitted by Senator Dennis DeConcini

Weather Station Closings

I have been advised that the Secretary has, through Administrative action revised his FY 83 budget plan to include the continued operation of the 45 weather service offices nationwide that were originally targeted for closure. Approximately $2.86 million will be necessary to carry out the Secretary's directive and it is my impression that no new funding will be requested for the Weather Service to cover this expense. How will this action affect other programs within the Weather Service? Will this place further stress on this agency and present problems in carrying out other vital roles?

The funds will come from the substitution of other reductions in the FY 83 budget request. These reductions are operational funding for the new Weather Service Office at Tupelo, Mississippi; reduced hurricane reconnaissance funding; and reduced funding for inflationary adjustments.

I have been particularly concerned about the continued operation of the Weather Service office at Flagstaff, Arizona. For the record, could you provide me with current status of this office and the plans for its operation through FY 83?

The Weather Service Office (WSO) at Flagstaff is currently open 11 hours a day 3 days a week and 8 hours a day the other 4 days a week. It is staffed by one permanent employee and one temporary employee. Actions have been initiated to restaff the office to its original complement of four. Contingent on the availability of FY 82 funding for the 20 part-time WSO's, the National Weather Service expects the restaffing to be completed and the office back to a 16-hour daily operation by the end of June 1982.

Questions Submitted by Senator Lawton Chiles

Assistance to Fish Hatcheries

In your statement you refer to a three-year phase-out of the Columbia River salmon hatchery program. We have two fish hatcheries at Cheraw and Walhalla, South Carolina, as well as 29 others in the Southeast which are operated by the Fish and Wildlife Service. These hatcheries, however, are slated for termination of support at the end of Fiscal Year 1982.

Why are the Columbia River hatcheries being treated differently than those in my State and elsewhere, where funding is to be eliminated at the end of this fiscal year? What substantive reasons does the Administration have for differentiating between them?

Although I cannot speak for the Fish and Wildlife Service, I understand that the mitigation role of the Columbia River hatcheries constitutes the primary difference. Since the Columbia River hatcheries were originally constructed in order to mitigate the loss of anadromous fish caused by the construction of dams by the Federal Government, it is likely that area states, local governments, and others will maintain all or some portion of these hatcheries' production. A three-year phase-out has been proposed in order to provide a greater opportunity for those who wish to maintain production at these hatcheries to arrange for alternative funding sources.

You propose in your NOAA budget to make some drastic cuts in fisheries research--for example, $4 million for fish stock assessment, $3.3 million for the regional councils, $3.6 million for fisheries habitat, $3.6 million for data collection and analysis, $.6 million for recreational fisheries, and so forth. The stated reason for so doing is that these activities can better be handled by the private sector or states involved. In 1976, the Magnuson Fishery Conservation and Management Act became the law and requires implementation involving Federal, regional and state government entities. Without basic research, data collection, stock assessment, and the like, which you are proposing to cut, this law cannot be implemented. How do you propose to implement this law in the face of the budget cuts you propose?

These reductions are part of a general reduction in the rate of fishery management implementation, consistent with the President's policy for reducing the Federal regulatory burden on the American public. We believe the proposed reductions can be implemented without serious consequences, over the short-term, to currently managed fisheries. It is NOAA's position that management should be extended to only those fisheries for which management is needed.

Fisheries -- Aquaculture

The NOAA budget proposes to terminate aquaculture research programs based on the reasoning that it is a more appropriate activity for the states to undertake. However, the Fish and Wildlife Service is proposing to do just the opposite - fund aquaculture. What is the Administration policy on this matter? If the agency is unable to provide a definitive answer on this matter, we suggest that OMB be consulted prior to responding.

The NOAA aquaculture program is proposed for termination under the President's policy of relying on the private sector to pursue opportunities for economic growth. Since the program focuses largely on commercially attractive species, private industry can be expected to assume the investment risk associated with the aquaculture development of species which have sufficient economic potential. Although I would defer to the Fish and Wildlife Service to explain the rationale for their budget decisions, I understand that their aquaculture program has experienced some reduction and primarily supports fish hatcheries which are funded in FY 1983.

Commercialization of Satellites

What is the administration's position on transfer of Landsat and weather satellites to the private Sector? If the administration plans to transfer either or both, under what conditions and over what period of time will the transfer occur?

The administration has announced its decision to eventually transfer the Landsat Program to the private sector and this decision has not changed. The decision regarding commercialization of the civil weather satellites is still under consideration by the Cabinet Council on Commerce and Trade. The decision is expected within the next month or so.

User Fees

NOAA is proposing to establish various user charges by means of legislation. If the legislation establishing these user fees does not pass, how will the agency meet funding requirements in the affected programs?

If the new legislation is not enacted, we assume that the Office of Management and Budget would reevaluate what the funding arrangements should be regarding these programs.

User charges are proposed for nautical charts that will yield full cost recovery by 1985. As a result, it is understood that the cost of charts will rise significantly, with some exceeding $100. What effort has the agency made to determine the economic impact of these price increases on the fishing community?

The public presently pays $4.50 for nautical charts. Nautical chart prices would have to be raised by FY 1985 in excess of $40 apiece for public users to achieve full cost recovery, assuming no reduction in current sales volume. No surveys of fishermen have been conducted

regarding the effect of potentially higher increased chart prices. The expected impact of higher chart prices will vary depending on the type of fishing that is conducted.

Has any effort been made to consider the implications for navigational safety if the cost precludes usage of the charts?

No. It is extremely difficult to estimate the effect on navigation safety if chart usage by the public were to be curtailed because of higher prices. Marine safety would depend on such factors as knowledge of local waters, feasibility of using alternative map products, and competence of boat operators.

Mapping, Charting, and Surveying

NOAA is proposing to decrease the marine boundary survey program by 10 positions and $537,000, affecting Alaska, South Carolina, Florida, Mississippi, Louisiana, and California since these are considered lower priority coastal and offshore boundary areas. Since the budget justification is silent on the meaning of "lower priority," please explain specifically why the survey program in these areas has received this classification.

The States listed--Alaska, South Carolina, Florida, Mississippi, Louisiana, and California--are the States presently participating in the cooperative marine boundary program. These States have appropriated State funds to share the cost and responsibility for providing the data for determination of coastal and offshore boundaries. The funding contribution made by these states is an indication of the extent to which the program supports state-specific needs and interests. Given the current need to reduce Federal appropriations and to focus on NOAA's national missions, NOAA is attempting to reduce support of programs such as the cooperative boundary effort which primary benefit specific states or user groups. This supports the Administration position of transferring full costs to the users, in this case, the coastal states.

Will the suspension of these activities affect the quality of nautical charts the agency is responsible for maintaining for these areas, or other sectors of the agency's responsibilities? If so, please list the affected areas of responsibility and explain.

Marginally. The National Tide Observation Network has been expanded from 125 to 171 stations over the past 6 years to support marine boundary determinations, storm surge and tsunami warning systems, fisheries research, climate and coastal zone studies, programs of the Army Corps of Engineers and Environmental Protection Agency, and users in the private sector. All of these programs will be impacted by a return to a 125 station network. Present nautical chart quality would be maintained for large areas of the country. However, chart quality in certain regions will be degraded somewhat.

NOAA Fleet Rehabilitation Program

The Administration Budget calls for a $400,000 reduction in the NOAA Fleet Rehabilitation program, covering 11 out of the 15 ships originally scheduled for upgrade. Identify the four ships which will not

be rehabilitated. Describe specifically how this will affect the performance of their missions.

Presently, of the 15 ships originally scheduled for rehabilitation, the oceanographic research Ship OCEANOGRAPHER has been deactivated and the east coast circulatory survey Ship FERREL has been proposed for deactivation in FY 1983. If neither the FERREL nor OCEANOGRAPHER is restored to NOAA's budget, it is not necessary to rehabilitate either of these two ships. In addition to FERREL and OCEANOGRAPHER which support the Ocean and Coastal Mapping, Investigations, and Services programs, NOAA proposes to exclude two ships, the RUDE and HECK, which locate submerged obstructions and hazards to navigation in support of the east coast Nautical Charting program from the midlife rehabilitation program. The net effect of a ship not completing the material and technological upgrade and rehabilitation is to shorten its availability to the program(s) it supports by approximately 10 years.

Fisheries - Market News

The current budget proposal recommends termination of the Market News published by the National Marine Fisheries Service, while comparable publications at the Department of Agriculture will continue to receive funding. How do you explain this discrepancy in Administration policy?

If your response includes generalized statements to the effect that the private sector is a more appropriate source for this activity than the Federal government, specifically explain why the same distinction is not being made regarding the private sector farming community at the Department of Agriculture.

Although I would defer to the Department of Agriculture to explain the contents of their budget and the rationale for their decisions, I can comment on our Market News Program reduction. In supporting the President's program of reducing Federal spending, we selected this program for reduction because it represents an area where the private sector has the capability to continue support services to the public.

Great Lakes Environmental Laboratory

The FY83 NOAA budget states the following with reference to the Great Lakes:

> *Because the importance of this national resource transcends local, state, and even national boundaries, Congress has identified a Federal responsibility for developing a sound scientific base for resource management decisions and for environmental prediction in the Great Lakes region. Section 202 of the Marine Protection, Research, and Sanctuaries Act of 1972 (P.L. 92-532) assigns NOAA the responsibility of conducting research into the long-term effects of man-induced changes to the Great Lakes.*

With the elimination of the Great Lakes Environmental Research Laboratory at Ann Arbor, Michigan, and with the elimination of Sea Grant, how would NOAA discharge this responsibility?

The elimination of the Great Lakes Environmental Research Laboratory and the Sea Grant Program means that NOAA will still discharge this responsibility, but at a reduced level of effort.

The NOAA budget also notes that approximately one-third of the nation's hazardous waste is generated in the Great Lakes basin. The pre-publication final draft of NOAA's National Marine Pollution Program Plan states the following:

> *The human health problems associated with Great Lakes pollution are perhaps the most disturbing. The accumulation of toxic wastes over nearly a century of heavy industry has now become the pollution problem of the region.*

The Plan goes on to state that the problem of contaminants and toxics (along with 5 other problem areas) is considered to be of "highest priority". How does NOAA justify directing its resources away from matters of the highest priority?

Only a portion of the GLERL base funding (approximately $475K out of $3,644K) is allocated to the direct study of toxic organic substances in the Great Lakes. That amount is supplemented by $400K from NOAA's Long-Range Effects Research Program carried out in response to Section 202 of the Marine Protection, Research, and Sanctuaries Act (P.L. 92-532, as amended). Section 202 funds would continue to support work on toxic wastes by universities and private sector research organizations located in the Great Lakes Basin.

Ship Support Services

The NOAA Class IV Ship FERREL is specifically built for circulatory surveys in the shallow water areas along the Atlantic and Gulf coasts. It is presently the only NOAA vessel conducting surveys of tides and tidal currents on the U. S. east coast. In light of the proposal to lay up the FERREL, does NOAA intend to continue circulatory surveys on the east coast and, if so, how would these surveys be carried out?

No. The data collection aspect of the Circulatory Surveys Program on the Atlantic and Gulf coasts would be deferred until other resources can be identified for future data gathering.

What would be the practical consequences of eliminating such surveys?

Completion of the ongoing Chesapeake Bay circulatory survey will be delayed as will the updating of the associated navigational products. Processing of previously collected data will continue.

Questions Submitted by Senator Harrison Schmitt

Weather Station Closings

The National Weather Service proposed closing 38 part-time weather stations in fiscal year 1982.

The Conference Report for the Continuing Resolution provided that 18 (including Clayton and Roswell, Mexico) stations should be closed at the end of March 1982, and that the remaining 20 should continue operating through fiscal year 1982.

In fiscal year 1983, NWS proposed closing 45 stations, including the 20 reprieved in fiscal year 1982. This decision has since been reversed.

Supplemental fiscal year 1982 funding is now being requested by the NWS for the 20 stations. If the request is not approved by the appropriations committees, NWS intends to close all of the original 38 stations at the end of March 1982.

The House is indicating a reprieve for all or some of the 38 stations for fiscal year 1982.

What were the reasons that led the NWS to reverse its recommendation to close 45 weather stations in FY 1983?

Because of the concern expressed by Congress and the public over the proposed closures, and in light of the overall NWS restructuring now being initiated, the Department and NOAA decided to defer consideration of closures until these can be undertaken in the context of the NSW's future technological and field structure improvements.

Why are these reasons not applicable to the 18 part-time stations slated for closing at the end of this month?

Congress has given specific instructions regarding the 38 part-time WSO's in the FY 1982 budget. Of the 38 WSO's, Congress identified 20 that are to remain open through FY 1982. No funds were provided to continue operation of the 18 WSO's. These are part-time stations without radar and without upper air responsibilities. They derive their forecasts from zone or area forecasts. Thus, in light of Congressional direction and the capabilities/responsibilities of these WSO's, NOAA supports their closure.

Will localities where stations are to be closed be provided equivalent weather information from the remote stations to which responsibilities have been transferred?

Yes. Again, because the localities where part-time stations are to be closed already depend part of the time on weather information from the most proximate full-time station, and derive their forecasts from zone forecasts prepared by a larger station or WSFO, the impact of the closures should not be substantial.

Executive Direction and Administration

The Administration proposes a Fiscal Year 1983 request of $37.6 million, including reductions from Fiscal Year 1982 of:

- *o $8.5 million-proposed administrative savings;*
- *o $ .1 million-reduced overhead costs;*
- *o $ .3 million-closure of Southern Region Headquarters in Fort Worth, Texas;*
- *o $ .5 million-reduced printing costs.*

Part of the "proposed administrative savings" are associated with centralization of much of the NOAA General Counsel and Congressional Relations responsibilities in the Office of the Secretary. Steps in that direction already suggest that responsiveness to requests by the Committee for information and assistance are degraded significantly by the transfer.

What are the elements of the "proposed administrative savings"?

The reduction of 249 positions and $8,470,000 represents an across - NOAA decrease in centrally-budgeted program management and support. As operational programs decrease, administrative support levels are being reduced in order to maintain proper overhead ratios.

The proposed 249 position reduction represents a 27.5% cutback in positions associated with the EXAD function compared to a 20% reduction in NOAA overall program level. Although administrative work often must be continued during program phase-out, a major portion of the 249 position reduction reflects reduced workloads associated with the planned reduction in program level. Other position savings will be achieved through more careful position management, contracting out, and eliminating lower priority administrative services. The staffing reductions will be achieved through a combination of attrition, selective RIF's, and various other staffing approaches.

Of the proposed $8,470,000 savings, approximately half is directly associated with the position reductions proposed in the FY 1983 or annualization of administrative salary savings planned during FY 1982. The remainder will be achieved through NOAA-wide cost reduction efforts in such areas as travel, publications, staff training, space utilization, equipment purchases, and use of experts and consultants.

How much of the "proposed administrative savings" are for the utilization of the congressional relations responsibilities? For centralization of general counsel responsibilities? How can Congressional committees be assured that responses to requests for information be as accurate and prompt as those which are provided now where the services are located in NOAA?

The Department's planned consolidation of selected operations will also permit greater automation and economies of scale which will yield staff savings.

Polar Orbiting Environmental Satellites (POES)

In the case of a premature failure of the single satellite:

How soon can a back-up satellite be placed in orbit?

The NASA MOA with the U.S.A.F. commits the Air Force to launch a NOAA satellite 120 days following a launch call-up. This period represents the minimum practical period at reasonable cost. DOD launch priorities may result in an increase to this period, but launches for which the approximate date is known in advance should be effected in accordance with the 120-day call-up. With the proposed operation of a single POES, the satellite contractor will be reducing his staffing and will spread out the construction period of the satellites. Since fewer staff will be available, an emergency call-up is expected to require somewhat longer than 120 days to prepare a satellite for launch.

To what extent will back-up information be available from general (weather?) stations and the Geostationary Environmental Satellites?

Data from ground based stations are available from continental land masses and ocean shipping routes. Though data from the continental land masses are generally adequate, data from the ocean areas are somewhat sparse. The data from the two Geostationary Satellites provides coverage of the ocean area contiguous to the United States. Soundings of the atmosphere can be obtained experimentally from GOES now. The capability to use them operationally will be available when the ground equipment funded in the FY 1983 budget is installed. GOES does not provide data from the polar regions nor from the portion of the globe including the Western Pacific and Indian Oceans. NOAA will continue to use the remaining polar orbiter to provide these data.

What will be the impact on weather forecasting information?

Data for numerical analysis will be available at reduced frequency. It is not possible to quantify any potential reduction in accuracy resulting from this change.

To what extent does the POES and the Defense Meteorological Satellite back-up one another? How compatible will the one POES system be with the DMS compared with the two POES system? What is the Department of Defense position on the proposed one POES system?

The primary requirements for POES and DMS satellites are not identical. NOAA satellites are planned primarily to obtain quantitative environmental data for numerical analysis purposes. The DMS primary requirement is provision of high quality imagery for defense related use. Each satellite provides data which can be used by the other agency though the quality is not equivalent to that obtained from its own satellites. NOAA imagery data is routinely provided to the USAF and is fully assimilated into its analysis product. With elimination of the morning POES satellite, back-up data for the early morning DMS satellite will no longer be available. The early afternoon satellite imagery data will continue to be available to the WAF.

position on one satellite system?

DOD was consulted before a decision was made to revert to a one satellite system. Although the DOD is concerned about loss of the morning back-up from the NOAA satellite, Secretary Weinberger supports this Administration's proposal.

What are the practical consequences of the one POES launch schedule on the international search and rescue experiment? Does this mean that the U.S.S.R. will be demonstrating a search and rescue capability before us?

The search and rescue demonstration was planned to begin in mid 1982 with the launch of NOAA E which would have replaced NOAA 6 which was launched in June 1979. The U.S. user agencies are expected to be ready to support the demonstration at that time; staff and equipment will be in-place waiting for the flow of data to begin. The NOAA E launch delay from mid 1982 to early 1983 will not, in itself, significantly affect the program's initial goals. The major impact of return to a one polar program would occur if it was decided to delay the NOAA E launch past the first quarter of 1983. The one satellite configuration does not assume redundancy in-orbit. Since NOAA 7 will not have reached its design life time until mid 1983 it is possible that a replacement launch could be delayed until that time.

In program planning meetings, the U.S.S.R. has announced that they will be prepared to launch a compatible Search and Rescue system in mid 1982 as their contribution to the international program. The U.S., Canada and France have not objected to this proposal. As originally conceived, the U.S./Canada/France system was to be launched prior to the U.S.S.R system which would then be placed in-orbit as part of a two satellite cooperative demonstration. Though we have no proof of the Soviet ability to launch this summer, it is likely that they will now be in-orbit 6-8 months prior to our system.

Sea Grant

The Land Grant program has functioned very successfully over a great many years, and has been extremely beneficial for agriculture. What makes the Administration believe that Sea Grant is less successful?

The Administration makes no claim that the Sea Grant program has been less successful than the Land Grant program. On the contrary, the Sea Grant program has been found to produce significant economic benefits.

The rationale for terminating the Sea Grant program has to do with its peripheral relationship to NOAA's core missions as a result of its serving primarily local, state, and regional needs. Moreover, the original goal of the program has largely been achieved, namely the creation of a network of Sea Grant colleges dedicated to marine education and research. The fact that matching funds are in excess of the minimum required (39% vs. 33%) suggests that increased state

and local support will be forthcoming, particularly for those programs which have demonstrated a major economic impact.

Is it the Administration's position that the benefits of Sea Grant to the marine fisheries community are less than the benefits of Land Grant to the agricultural community?

No. The Sea Grant program has been found to produce significant economic benefits. (see above answer)

Questions Submitted by Senator Thad Cochran

Agricultural Weather Service

I understand that there are plans to close 7 agriculture Weather Service offices and reduce staff at 8 others. One of the stations to be closed is located at Stoneville, Mississippi, and I know for a fact that farmers in Mississippi rely on this service.

Studies have shown that the agricultural weather service's availability of timely weather information means a potential 16 percent savings in the cost of growing cotton in Mississippi. In 1981, that amounted to nearly $57 million in savings for only one crop in one state.

Irrigation is a critical component in the Nation's agriculture. Research shows irrigation efficiency can be improved by some 35 percent through the use of weather data in irrigation.

Studies made over the years have indicated that preventable weather losses average nearly 7 percent of the cash receipts annually. Using that estimate,

(1) to Mississippi farmers - $ 100,000,000
(2) to Mid-South farmers - $ 482,000,000
(3) to American farmers - $9,350,000,000

The benefits come in the form of increased yields, improved quality, reduced cost, reduced losses, better marketing opportunities, reduced energy consumption and less pollution.

In view of these statements, how can you justify the one-year savings of approximately $1 million anticipated by these closures, when the long range financial loss is so enormous?

In formulating the FY 83 budget, the principal consideration was the overall effort to reduce Federal employment and expenditures while preserving the National Weather Service's capability to carry out its central mission of providing the warning and forecast services that directly affect the protection of life and property.

In this context, NOAA identified programs that would be more appropriately funded under the user fee concept and programs that provide services to a specific user group which could be provided by the industrial meteorologists in the private sector. The Agricultural Weather Program provides services to a specific user group. It is proposed that these services could be provided by a segment of pri-

vate industry -- the private meteorologist. The user can purchase from private industry only those services needed.

Questions Submitted by Senator Charles McC. Mathias

EPA Chesapeake Bay Program

What is the comparative biological productivity of the Chesapeake Bay system relative to other bodies of water?

The Chesapeake Bay is one of the most productive bodies of water in the United States. Recent estimates have shown that primary productivity (marine plant production) in the Chesapeake is 10 to 100 times that of the open ocean. In terms of secondary productivity (fish and other animal life) George's Bank, one of the world's most productive fishing grounds, yields less than 3 tons of fish per square mile per year. In comparison, the Bay yields nearly 12 tons. Further, many of the fishes of commercial and recreational interest found in Atlantic coastal waters are dependent on Chesapeake Bay and other estuaries during part of their life cycles. The striped bass is a preeminent example.

What is the economic value of this biological productivity?

In 1980, commercial landings from the Bay were 717 million pounds worth $130 million in first price paid to fishermen at point of delivery. The Bay also provides for a large recreational fishery which harvested about 35 million pounds annually in recent years. This $130 million commercial value figure does not include the economic benefits from the recreational fisheries or the secondary economic benefits resulting from other regional economic activities associated with the commercial and recreational fisheries. It also does not include the value of those substantial stocks of fish harvested from Atlantic coastal waters that are dependent on the Chesapeake Bay and other estuaries during spawning and early life stages.

How is NOAA implementing the Chesapeake Research Coordination Act?

NOAA has been unable to carry out all of the provisions of this Act due to budgetary austerity. However, NOAA has made progress in meeting the intent of the Act. NOAA is very sensitive to the concerns of the States of Maryland and Virginia about Bay issues. It has thus been very active in working with state officials, through the Maryland-Virginia Bi-State Working Committee mechanism, on alternative means for better coordinating Federal assistance in solving critical Bay issues. NOAA has developed with the states' help a plan to organize an ad hoc committee of representatives from the Federal agencies named in the Act. Once formed, this panel will interact with representatives appointed by the Governors of Maryland and Virginia to focus on R&D matters of mutual interest. NOAA, together with Maryland and Virginia, believes that this mechanism will fulfill the intent of the Act and provide for an effective means of cooperation between the Federal and state governments as well as among local academic institutions, public interest groups, etc.

What research programs does NOAA plan for the immediate future to evaluate the relationship between water quality findings and the shifts in abundance of estuarine and coastal stocks?

It is the Administration's policy to reduce Federal involvement in areas that are within State jurisdiction. State agencies with regulatory authority for environmental protection should assume greater research responsibility for support of their own role in the conservation of the marine habitat. For these reasons, we are reducing our research on the consequences of habitat alterations and water quality degradation and reducing efforts to quantify estuarine productivity and its relation to the productivity and abundance of living marine resources.

How do these programs relate to other ongoing Federal programs like the EPA water quality laboratories?

NOAA, under the terms of a recently implemented Memorandum of Understanding with the Environmental Protection Agency laboratory at Narragansett, Rhode Island, is investigating the effects of effluent plumes on coastal and estuarine fish stocks.

How can the Environmental Protection Agency Chesapeake Bay Program (EPA-CBP) and other established computer data bases assist NOAA in evaluating fishery stock questions?

The EPA-CBP data base is possibly the most extensive estuarine water quality and resource data base known to exist in the United States. As such, it will be invaluable to NOAA scientists who are looking at spawning grounds and stock trends of commercially significant anadromous species.

Extensive data and possible water quality correlations exist for the following anadromous species: American shad, blueback herring, striped bass and white perch.

The data base has spatial and temporal coverage of 17 water quality variables for a thirty-year period and contains resource data for finfish, shellfish, crabs, wetlands and submerged aquatic vegetation. NOAA plans to utilize this research to assist in understanding fisheries/water quality relationships and to more effectively enable NOAA to manage the overall fisheries resources.

How does NOAA plan to develop an objective assessment of the productivity of economically important coastal marine and estuarine fisheries stocks and of the factors regulating their abundances?

NOAA presently maintains catch records of commercial fisheries species. However, catch records do not accurately reflect the actual stocks of fish. To determine abundance, objective techniques like field monitoring of juveniles and adults and computer modelling are required.

The abundance of fish is related to climatic and water quality factors. These factors can be understood in part by using large computerized data bases like that the the CBP to assess correlations between fish abundance and environmental factors in a single estuary. Such correlations enable one to establish the possible range of resource use attainability from a pristine to a degraded state.

Also, the highest priority work in evaluating the role of disease, parasitism, and environmental quality on the health and population dynamics of fish and shellfish will be considered for continuation as budget priorities permit.

How does NOAA plan to use the findings of the Chesapeake Bay study to develop a rational program which would relate the effects of pollution on renewable living resources in a meaningful way?

It is NOAA's understanding that the EPA CBP is developing an assessment of pollutant sources--their fate, transport, and impact upon living resources. Such integration makes it possible to develop management strategies that will foster the protection of natural resources by maintaining the required level of water quality. NOAA could utilize this approach in other ecosystems through cooperative efforts such as the ongoing ocean dumping project between the NMFS Northeast Fisheries Center and the EPA Narragansett Laboratory which oversees the CBP.

It is NOAA's intention to utilize these products in its national effort to protect natural resources.

Can the NOAA ecosystem model be adopted to the Chesapeake; if not, what are the major impediments?

NOAA's Center for Environmental Assessment Services is currently adapting its nearshore ecosystem model for the Gulf of Mexico to the Chesapeake Bay. Key personnel of the EPA Chesapeake Bay Program are developing quantitative information necessary for model input. Verification of the model will be achieved by comparing the model output to actual data collected by the Chesapeake Bay Program as part of their Characterization effort. The model will be utilized in a diagnostic mode to examine potential nutrient and pollutant effects on the resources of sensitive areas of the Bay. At this time we do not anticipate any major impediments in applying the model to the Bay.

What kind of Chesapeake Bay Federal-State-Academic effort could be initiated to assure that key areas and features are monitored, water quality and living resources are evaluated further, and interstate cooperation and coordination is improved?

Providing answers to questions such as these is a prime concern for NOAA as well as for the States of Maryland and Virginia. Therefore, the first order of business planned for the NOAA Federal ad hoc committee will be to interact with state-appointed scientists and officials in a series of workshops. The goal of this effort will be to develop a research plan that will identify research gaps, needs, and priorities for current and planned R&D in the Bay. It is anticipated that, during the development and implementation of this research plan, a cadre of Federal and state scientists and officials will be formed that will continue to insure a well coordinated and planned expenditure of funds available for Bay research.

Questions Submitted by Senator John C. Stennis

Agricultural Weather Program

Dr. Byrne, I am very concerned that you are planning to close down the agriculture weather program which includes the four service projects at Stoneville, Mississippi; Auburn, Alabama College Station, Texas; and Purdue University, Indiana. While I cannot speak for other than the project at Stoneville, I am informed that this program has been of great benefit to our farmers and planters covered by that area. Particularly during this time when our farmers are caught in a terrible economic situation it would seem false economy to close this valuable service. For example, I understand that the avoidance of "wash off" of one application of pesticide by an unexpected rain storm would cost more than $1 million in this area alone. I understand that irrigation effectiveness can be improved by some 35 percent through the use of weather data and irrigation. I have estimates that this specific weather information is worth as much as $100 million to our Mississippi farmers and nearly $500 million to our mid-south farmers. It appears to me that closing of these centers with the estimated savings of $1 million and 33 positions is an extremely poor decision. Dr. Byrne, would you give me a more detailed rationale for this decision? Secondly, was this action coordinated in any manner with the Department of Agriculture since there seems to be a contradiction in our continued efforts to improve our farm conditions.

An essential ingredient in the formulation of the Administration's budget proposals is the reduction of Federal expenditures and employment where possible and appropriate. First, the "core" mission is identified and preserved. In the National Weather Service, this is the basic warning and attendant forecast programs designed to protect the public. Then, the remaining programs are assessed to determine the degree to which they provide services to a specific user group and if these services would be more appropriately provided by the private sector or funded through user fees.

Office of Ocean Technology and Engineering Services

Dr. Byrne, last year the Appropriations Committee in its report stated:

> *"The Committee is concerned about the consolidation of activities and functions into the Office of Ocean Technology and Engineering Services here at the Washington level. It is noted that the National Oceanic and Atmospheric Administration in its 1981 appropriations justification has a line item for data buoy development and maintenance; however, the 1982 justification sheet changes the line item to data buoy operations and maintenance. The committee directs that for other that general co-ordination and oversight, the development of data buoys should remain with the Data Buoy Office."*

Would you tell me what your response has been to this direction?

NOAA has complied with the Committee's request.

Questions Submitted by Senator Donald W. Riegle

Great Lakes Environmental Research Laboratory

It is my understanding that the rationale behind the decision to close the Great Lakes Environmental Research Lab is that this lab is not as essential to NOAA's mission as the agency's activities which are being continued. As you are surely aware, 95% of the U.S. surface fresh water is contained in the Great Lakes. It would seem to me that with such an overwhelmingly abundance of fresh water in the Great Lakes, any research facility located there would be vital to our nation's environmental and pollution research on fresh water. In light of this, can you explain exactly what is meant by "not as essential to NOAA's mission"?

While NOAA recognizes the importance of the Great Lakes to the nation and the need to continue to do research to help resolve many resource-use conflicts in the lakes, an evaluation of GLERL in comparison to other NOAA marine and atmospheric laboratories indicated that, in the context of NOAA's mission, GLERL was less critical than the others. The program at GLERL is more regional in nature than those at the other NOAA laboratories; state and local governments have most of the management responsibility for the Great Lake resources and, therefore, should support any future research activities considered necessary.

It is also my understanding that NOAA regards this project as a purely regional concern and, further, that the interested states will pick up the necessary funding. At the same time, however, I am being told that the current reduction in state dollars is severely limiting the states' ability to study the Great Lakes. Given such an inability and the fact that the importance of Great Lakes research is increasing, what are your thoughts on how this lab will be funded in the future?

With the termination of Federal support, the future of the research conducted by this laboratory is uncertain. Because of the interest of the state/local government entities in the region, however, we believe that the highest priority programs will be continued at some level. These programs can be undertaken using local universities and private groups.

Finally, I'd like to return for a moment to this idea that the Great Lakes is solely a regional concern and therefore doesn't merit attention or funding at the national level. As you surely know, the Great Lakes is a resource which we share with our neighbors to the North, namely, Canada. And, consequently, we jointly share the responsibility of conducting and funding various research programs on the Great Lakes. How do you think our Canadian neighbors will react to the termination of the Great Lakes Environmental Research Lab? It seems to me that they will take this as a sign that we are no longer interested in maintaining a joint effort in this area. What are your thoughts?

The primary responsibility for the US-Canadian agreement ..... on water quality is and will continue to be with the Environmental Protection Agency. No doubt, the Canadians will have some concerns over the level of the US efforts; however, the high priority projects should continue under EPA, state or regional sponsorship.

Questions Submitted by Senator Ernest F. Hollings

Great Lakes Environmental Laboratory

Senator Proxmire and I have been receiving many letters regarding the proposal to close the Great Lakes Environmental Research Laboratory. A few years ago there was great concern about the condition of Lake Erie to the extent that some were pronouncing it dead. Similar concerns were voiced about the other four Great Lakes.

What role did the GLERL have in the restoration of Lake Erie?

Lake Erie has made a remarkable recovery recently, primarily due to intensive research and related action by resource managers. A large portion of GLERL output over the last few years is related to the restoration of Lake Erie. A few specific examples are included below:

1. A phosphorus cycling model has provided more accurate determinations of phosphorus loadings to Lake Erie, resulting in the imposition of less stringent regulatory controls on municipalities.
2. A eutrophication model for the Great Lakes published in Science predicted the recovery of Lake Erie and spurred continuing cleanup efforts.
3. Flow measurement research on the Detroit River has allowed the State of Michigan to estimate more accurately pollution loads to Lake Erie from the Detroit River - the major source of pollutants to Lake Erie.
4. Models have been developed, with the Corps of Engineers and the Department of Agriculture, to predict non-point source pollution.
5. A study on polynuclear aromatic hydrocarbon (PAH) contamination in Lake Erie was recently completed.
6. In a major U.S.-Canadian cooperative study, cores were collected in the high sedimentation areas of the lake showing the contamination stratigraphy over the last 100 years.
7. An ecosystem model was developed for Lake Erie, allowing for improved understanding of the effects of pollutants on the environmental conditions in Lake Erie.

All but Lake Michigan of the Great Lakes are international waters. How will the cooperative endeavor with Canada regarding the lakes be maintained without GLERL?

The EPA is the lead Federal agency in matters relating to implementing the Canada-United States Great Lakes Water Quality Agreement of 1978. The EPA entity that carries out this responsibility is the Great Lakes National Program Office. It is anticipated that the National Program Office will continue to coordinate U.S. activities on behalf of the Water Quality Agreement and perform necessary liaison with its Canadian counterpart.

What assurance is there that the universities in the Great Lakes region will assume the research conducted by GLERL?

No assurances can be given that the universities in the Great Lakes region will assume the research now conducted at GLERL. It is anticipated, however, that the states which have primary responsibility for managing the Great Lakes and their resources will support those research needs of highest priority and that those states will turn to the region's universities for the specialized talent required.

Assistance to Fish Hatcheries

In your statement you refer to a three-year phase-out of the Columbia River salmon hatchery program. We have two fish hatcheries at Cheraw and Walhalla, South Carolina, as well as 29 others in the Southeast, that the Fish and Wildlife Service is terminating support of at the end of fiscal 1982.

What is the difference between the Columbia River hatcheries and the hatcheries in my State and elsewhere that funding is to be eliminated?

Although I cannot speak for the Fish and Wildlife Service, I understand that the mitigation role of the Columbia River hatcheries constitutes the primary difference. Since the Columbia River hatcheries were originally constructed in order to mitigate the loss of anadromous fish caused by the construction of dams by the Federal Government, it is likely that area states, local governments, and others will maintain all or some portion of these hatcheries' production. A three-year phase-out has been proposed in order to provide a greater opportunity for those who wish to maintain production at these hatcheries to arrange for alternative funding sources.

Questions Submitted by Senator Slade Gorton

Columbia River Hatcheries

What percent of the total value of Columbia River salmon catch is attributable to the hatcheries program?

A total of 70 percent of the coho salmon and 42 percent of the fall Chinook salmon caught in the Columbia River are produced at Columbia River hatcheries supported by NOAA. These facilities contribute a total of approximately 15 percent of all fall Chinook and coho salmon caught from Alaska to California.

Has the State of Washington indicated that it will be capable of funding the Columbia River Hatcheries at their current levels with the reduction in Federal funding?

No, we have had no official communication from the State of Washington to this effect.

To what extent will the Columbia River Hatcheries program have to be scaled down if funding is cut and the State is unable to carry the full program?

For each dollar decrease which is not replaced, there would be a corresponding decrease of slightly less than one dollar's worth of fish production.

How does the dollar amount proposed to be saved in the budget reduction compare to the cost to the State of taking over the program?

The cost associated with the States' taking over the program would be less than under the Federal Government due to the inclusion of NMFS overhead costs. Currently, the facilities are operated by the States with State personnel.

What impact would this cut have on the ongoing U.S./Canadian salmon interception negotiations?

It is difficult to predict what the impact would be on the U.S./Canada interception talks. Production from the Columbia River contributes to the Vancover Island interception fishery, and these fish figure prominently in the negotiations.

Has the Chief Negotiator for the U.S. been consulted to determine the possible impact on the negotiations?

Although the U.S. Chief Negotiator is aware of this proposed budget reduction, NOAA has not formally consulted with him on this matter.

Please assess, with regard to each of the following programs for which budget cuts and/or terminations have been proposed, the extent of state capability to take over the program, and the impact on furtherance of the goal of each of these programs, in the event that state capability falls short of current funding levels:

a. fishery stock assessment programs

Reductions in fishery stock assessment programs are part of a general reduction in the rate of fishery management implementation which supports the President's policy of reducing the Federal regulatory burden on the American public. We believe the proposed reductions can be implemented without serious consequences over the short-term to currently managed fisheries. It is NOAA's position that management should be extended only to those fisheries for which management is needed. NOAA has not formally contacted the states which may be affected, since most of these reductions are associated with management in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act. In April of this year, we are hosting a meeting

of State Fish and Wildlife Agency Directors and will pursue this issue at that time.

b. Ocean dumping research, including specifically the MESA program in Puget Sound

Although presented under the same line item in the NOAA budget submission, the Ocean Dumping Program and the regionally oriented Marine Ecosystems Analysis (MESA) Program are distinctly separate activities. The focus of the Ocean Dumping Program is on the dumpsites off the Atlantic coast, with no funding from this program currently supporting ocean dumping-related work off the Pacific coast.

The proposed termination of the MESA Puget Sound Project will have some impact on the overall effort to understand the impact of human activities on Puget Sound. That Project, which began in FY75, is now in its eighth year and has already completed many of its planned objectives. The effects of this proposed early termination will be partially offset by continued funding of research relevant to the Puget Sound area under NOAA's Long-Term Effects Program. Also, NOAA has recently established a Northwest Office in Seattle to identify the high-priority research and monitoring needs of the region, prepare a regional marine pollution plan, and coordinate the various NOAA activities in the Northwest.

c. agricultural weather forecasting, including specifically the agricultural weather forecasting station in Wenatchee, Washington.

The agricultural weather program (including the fruit frost forecast program) provides services to a specific user group. It is proposed that these services could be provided by a segment of private industry — the private meteorologist. The local agricultural community can purchase tailored services according to its needs.

Questions Submitted by Senator Mark Andrews

Weather Modification

What programs have a higher benefit/cost ratio potential than weather modification for water production?

Because of scientific uncertainty about the effectiveness of existing weather modification technologies, current estimates of the economic value of weather modification can only be approximate. Realistic comparisons with alternative measures are extremely difficult to make. The potential benefit/cost ratio of precipitation enhancement is generally considered to be high, however; and substantial economic incentive exists for developing effective modification techniques.

For the past decade, NOAA has been doing research in weather modification and has been attempting to transfer existing technology to state and local users through: (1) the State-Federal Coop program, (2) direct consultation with such water resources agencies as the

South Florida Water Management District, and (3) documentation of research results in journals. One of our research programs, the Florida Area Cumulus Experiment, has attempted to prove statistically that dynamic seeding results in increased areal precipitation. While increased rainfall has been demonstrated for seeding of single large cumulus clouds, the results of seeding many cumulus cloud systems over the entire South Florida target area are not conclusive. Conclusive results would be needed before any kind of benefit/cost ratio can be calculated. One problem that must be addressed is how to stimulate, with minimal seeding, the interaction of clouds to form precipitating complexes from which large amounts of rainfall can be obtained.

Because of the lack of conclusive results available from NOAA cloud feeding experiments, NOAA had already begun to shift its program emphasis from field experiements to basic research on cloud processes.

Are we staying ahead or abreast with Russia in our weather modification programs?

There is no evidence available to indicate that the U.S. is not staying abreast of the USSR at the present time. Since the "open literature" from the USSR is not a good or a reliable guide, this assessment is based on technical-level exchanges between U.S. and Russian scientists. The Russians started late in weather modification but have come far in a short period of time. However, both the Russian and American programs require basic understanding of the cloud processes and the effects of seeding on these processes before a reliable technology for increasing areal precipitation through seeding can be developed and transferred to user groups.

What have been the overall goals of NOAA's past weather modification programs?

The overall goals of NOAA's weather modification programs have been to develop reliable and economically beneficial weather modification technologies. In particular, NOAA's programs aim to reduce loss of life and property damage resulting from hurricanes and other severe storms and to develop techniques for increasing precipitation from convective cloud systems. NOAA now realizes that modification of cumulus cloud processes is a more complex problem than previously thought. Consequently, in recent years NOAA has focused its weather modification programs toward a more fundamental "back to basics" approach recommended by the Cleveland Report and others, whereby the dynamic seeding hypothesis for enhancing convective rainfall can be examined by: (1) carefully designed field experiments, (2) modeling studies, and (3) laboratory work (CDMP). Other aspects of this approach focus on improved understanding of ice crystal formation, growth, and multiplication processes in natural clouds (ICPP).

If the Cumulus Dynamics Microphysics Program is the only coordinated research program on convective cloud systems, why are we giving this program up?

CDMP is being eliminated because, while weather modification efforts are important, they must be assigned a lower priority when viewed in the context of NOAA's overall responsibilities in service and

supporting research areas. As is the case in almost every other agency in the Federal Government, NOAA must cut back on less essential activities in order to help reduce the Federal deficit. The decision to eliminate this program was also made in part due to NOAA's current effort to achieve a better balance between ocean and weather programs.

NOAA has submitted a budget reducing weather modification by 80%. Where are you addressing the weather modification issues and potential with the remaining 20% of the budget?

The $6.0M reduction in the weather modification budget, which represents approximately 60% of the total weather modification budget activity, will eliminate all weather modification research in NOAA. The remaining 40% supports the Research Facilities Center (RFC), which provides: (1) basic and special measurements from airborne platforms in support of NOAA's hurricane, ocean-climate, and mesoscale research programs and (2) essential hurricane reconnaissance data for the National Weather Service as the storms approach to within 24 hours of the continental United States. NOAA expects to redirect some of these funds to continue supporting precipitation processes studies in the Office of Weather Research and Modification (OWRM). In addition, Cloud modeling at the Geophysical Fluid Dynamics Laboratory, cloud research using radar techniques at the National Severe Storms Laboratory, cloud sensing research at the Wave Propagation Laboratory, and satellite precipitation measurement techniques in NESS and OWRM will continue under other NOAA budget activities.

Questions Submitted by Senator Walter D. Huddleston

Dr. Byrne, the most troubling aspect of the FY 83 budget proposal is the attempt by the Administration to invoke the "Economic Recovery" argument to justify reductions in services that are clearly the responsibility of the Federal Government to provide. For example, the Weather Bureau was established nearly one hundred years ago and charged to provide essential services to agriculture, services that are now seen by the Administration as unaffordable and not necessary to the furtherance of the common good of the nation. My understanding of American agriculture is that it is an intrinsic and crucial segment of every economy, from small town to county, to state to region. More importantly, the health of this industry means life or death to millions of Americans in a literal - not figurative - sense. Would you please explain your reasoning "the Agricultural Weather Program provides services to a specific user group...services more appropriately provided by the private sector or funded through user fees?"

The nation's six million farmers represent the specific user group. This group can purchase the services of meteorologists in the private sector to provide some of the specialized aspects of the agricultural weather services in specific locations, and the basic weather warning and forecast products of the National Weather Service can be used for general agricultural purposes.

My understanding is the National Weather Service (NWS) has been operated at essentially a level staff complement for more than a

decade. During that period, what NWS enhancements have been made in the area of agricultural weather services? What budget increases have you received to support these enhancements? The President is correct to reduce the size of Government, but why was this beneficial service program of the Weather Service subjected to the same pro rata cuts as the rest of the programs within the Department of Commerce?

Four Environmental Studies Service Centers (later renamed "Agricultural Weather Service Centers") were established and a full time agricultural forecast program was instituted to provide agricultural weather advisory services to a 16-state area. Small area advisory services were established in California, Idaho, Oregon, Utah, and Washington. The Joint Agricultural Weather Facility was established to assist USDA Headquarters in assessing the economic impact of weather in international crop regions. Fruit frost services were consolidated and upgraded in Florida, Texas, and California. A full time agricultural weather forecast program was added in North Dakota and partial forecast services were added in 14 states. Data collection and climate analysis for agricultural use were instituted. Computerized forecast guidance covering agriculturally significant weather elements was implemented for four states. Agricultural advisory meteorologist positions were established through National Weather Service grants in seven states. The total increase during the decade were four positions and $435 thousand to support the joint office at USDA and climate analysis activities.

We proposed reductions in NWS programs where we felt sufficient skills existed outside the Federal Government to allow the private sector to provide the services. In this manner we can help spur the Nation's economy while continuing to provide services that support the protection of life and property of the general public.

According to the document describing the budget proposals for NOAA in FY 83, the elimination of the agricultural weather service program and the fruit frost forecast program would remove a national service program that "provides an estimated return of $30 to $100 in crop and livestock savings for every dollar spent." Thus the $1 million that the Federal Government will save by eliminating the program will come at a cost to the Nation of $30 to $100 million in weather-related crop losses. Do you consider that to be an acceptable price to pay to "rejuvenate" the economy, and a cost that the agricultural sector and farmers in particular can afford? What steps are you taking to ensure the continuation of the services through alternative means, i.e., private industry?

We think the private sector can provide some of the specialized aspects of the agricultural weather services in specific locations. The Zone Forecasts from our basic services that contain expected values of maximum and minimum temperature, precipitation probability, and wind characteristics, among other things, will continue to be available for farm and timberland management use during and after the period of transition of responsibility to the private sector. We feel that the combination of private sector enhanced services and Federal basic weather services will alleviate a significant portion of the weather-related crop losses one could expect if no services were available.

We will make available any previously historical records, technical reports, or collections of forecast technique discussions that could help private sector firms to understand the specialized nature of these services. The capabilities of the private meteorological firms and the needs and financial objectives of the local agricultural communities will result in widely varied levels of service across the country.

Your budget document includes a map showing the areas of the country that are receiving daily agricultural weather forecast and advisory services through the four Agricultural Weather Service Centers that you propose to close. Are farmers in the rest of the country receiving these services from the private sector now? If not, what leads you to believe the private sector will move in to provide these services in the areas affected by the proposed closings?

There are a few private firms providing some of the localized, tailored fruit frost service already. A number of larger firms have expressed an interest in providing selected services in specific locations.

The current budget proposals reflect the Administration's sincere concern about the state of the economy. Assuming the economy is back on track in the near future, what problems do you anticipate would be associated with the reestablishment of the Agricultural Weather Service Program if we allow it to be dismantled now?

The degree of effort that would be necessary to overcome such problems would be influenced by the length of time that had elapsed and the relationships that had developed among the farmers, state agricultural institutions, and private meteorological firms, as well as the breadth of agricultural weather service desired.

Rather than recommending you eliminate this program, haven't the GAO, the National Academy of Sciences, the Agricultural Research Institute and others actually been urging the Departments of Commerce and Agriculture to improve and expand this type of service to the entire National by updating the National Plan for Agricultural Weather Services? What is the status of that plan?

We have worked on revisions to the Plan with the Department of Agriculture through the Office of the Federal Coordinator for Meteorological Services and Research. We are proceeding to complete this task and expect that the decisions taken on our FY 1983 appropriation and spending level could alter some portions of the Plan's content.

SUBCOMMITTEE RECESS

Senator WEICKER. As indicated, we will be working closely in the weeks ahead recognizing that you have to fall within the constraints of the executive budget but also budgets constructed by that other branch of learning, the legislative.

The subcommittee will recess until tomorrow at 9:30 a.m. when we consider the requests of the Patent and Trademark Office; Scientific and Technical Research Service; and the Minority Business Development Administration.

[Whereupon, at 11:17 a.m., Wednesday, March 17, the subcommittee was recessed, to reconvene at 9:30 a.m., Thursday, March 18.]

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

THURSDAY, MARCH 18, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10 a.m., in room S–146, the Capitol, Hon. Lowell P. Weicker (chairman) presiding.

Present: Senator Weicker.

DEPARTMENT OF COMMERCE

PATENT AND TRADEMARK OFFICE

STATEMENT OF GERALD J. MOSSINGHOFF, COMMISSIONER OF PATENTS AND TRADEMARKS

ACCOMPANIED BY:

RENE D. TEGTMEYER, ASSISTANT COMMISSIONER FOR PATENTS
MARGARET M. LAURENCE, ASSISTANT COMMISSIONER FOR TRADEMARKS
BRADFORD R. HUTHER, ASSISTANT COMMISSIONER FOR FINANCE AND PLANNING
JAMES R. LYNCH, BUDGET OFFICER
HAROLD E. BUSWELL, DEPUTY BUDGET OFFICER
ARLENE TRIPLETT, ASSISTANT SECRETARY FOR ADMINISTRATION
NANCY A. RICHARDS, DIRECTOR, OFFICE OF BUDGET

PREPARED STATEMENT

Senator WEICKER. Our next request is that of the Patent and Trademark Office. The program level requested is $154,934,000, an increase of $19,345,000 over the 1983 base and provides for 3,151 permanent positions.

Beginning this year, we are required by Public Law 96–517 to make available estimated receipts of $47,758,000 collected pursuant to that law so that the Patent and Trademark Office can conduct its review of patent and trademark applications. In addition, the Patent and Trademark Office is proposing legislation to increase fees in order to collect additional receipts of $39,090,000. The Patent and Trademark Office is requesting an increase of $19,345,000 to accelerate examiner hiring to be able to reduce patent pendency to 18 months by 1987 and trademark pendency to disposal to 13 months by 1985.

Appearing on behalf of this request is Gerald J. Mossinghoff, Commissioner of Patents and Trademarks. Why don't you go ahead and introduce those who are with you. Your statement in its entirety will be included in the record at this point.

[The statement follows:]

STATEMENT OF GERALD J. MOSSINGHOFF

I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU THIS MORNING TO SUPPORT THE PRESIDENT'S REQUEST FOR APPROPRIATIONS FOR THE PATENT AND TRADEMARK OFFICE FOR FISCAL YEAR 1983 AND TO REQUEST SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1982.

THE 1983 PROGRAM LEVEL REQUEST FOR THE PATENT AND TRADEMARK OFFICE IS $154,934,000 AND 5,151 POSITIONS, AN INCREASE OF $35,973,000 AND 287 POSITIONS OVER THE CONTINUING RESOLUTION LEVEL FOR 1982 (P.L. 97-92). WITH OFFSETTING RECEIPTS OF $86,848,000 UNDER SIGNIFICANTLY HIGHER PATENT AND TRADEMARK FEES WE ARE RECOMMENDING, THE 1983 APPROPRIATION REQUESTED IS $68,086,000. THIS IS A NET DECREASE OF $50,875,000 WHEN COMPARED TO THE 1982 CONTINUING RESOLUTION LEVEL OF $118,961,000.

WE ARE ALSO REQUESTING AN ADDITIONAL APPROPRIATION OF $2,500,000 AND 172 POSITIONS FOR FY 1982 TO SUPPLEMENT THE RESOURCES INCLUDED IN THE CURRENT FY 1982 CONTINUING RESOLUTION.

THE FY 1982 SUPPLEMENTAL REQUEST AND THE FY 1983 PROGRAM LEVEL REFLECT A STRONG COMMITMENT TO IMPROVE SUBSTANTIALLY OUR SERVICE TO INVENTORS AND INDUSTRY. THERE IS A LOT OF ROOM FOR IMPROVEMENTS.

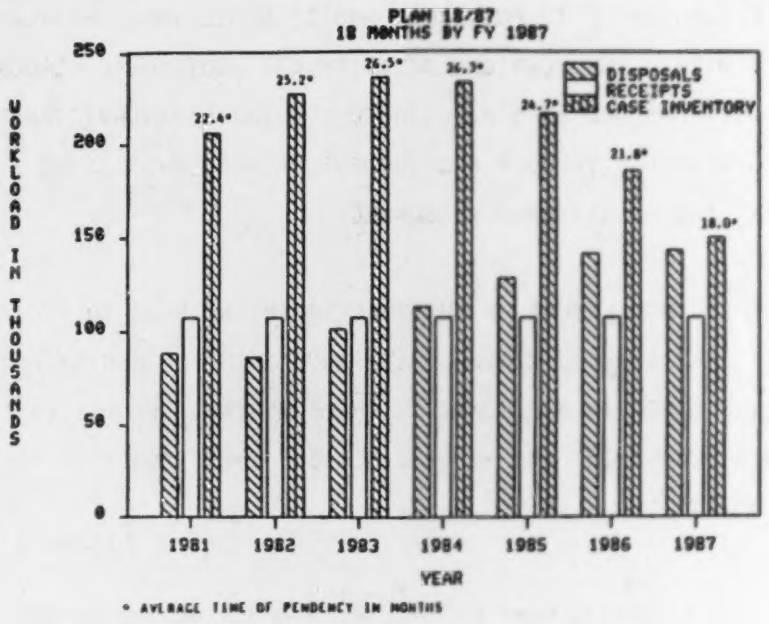
DURING FY 1981 WE ADDED 20,000 PENDING PATENT APPLICATIONS TO AN ALREADY HUGE BACKLOG, BRINGING THE TOTAL TO 206,000 CASES AT THE END OF FY 1981. THAT NUMBER WILL CONTINUE TO GROW NO MATTER WHAT IMMEDIATE STEPS WE TAKE. IN ADDITION TO DELAYING THE GRANTING OF PATENTS AND THUS INHIBITING THE INTRODUCTION OF NEW TECHNOLOGY INTO COMMERCE, HUGE BACKLOGS CLOG ALL ASPECTS OF OUR OPERATIONS, GREATLY DECREASING EFFICIENT PROCESSING. IN THE TRADEMARK SIDE OF THE OFFICE, THE BACKLOG IS AT A RECORD 116,000 AND THE TIME IT TAKES TO REGISTER A TRADEMARK, ABOUT TWO YEARS, IS LONGER THAN AT ANY PREVIOUS TIME IN HISTORY. AN ESTIMATED 6% TO 7% OF THE 24,000,000 DOCUMENTS PATENT EXAMINERS MUST SEARCH TO DECIDE

WHETHER TO ISSUE A PATENT ARE EITHER MISSING OR MISFILED. THERE ARE ESTIMATES THAT THE NUMBER OF PATENT DOCUMENTS WORLDWIDE WILL DOUBLE BY THE END OF THIS CENTURY.

THE ADMINISTRATION IS PURSUING AN AGGRESSIVE THREE-POINT PROGRAM FOR THE PATENT AND TRADEMARK OFFICE TO TURN THINGS AROUND. THE COST OF THE IMPROVEMENTS WE HAVE FORMULATED WILL BE BORNE PRINCIPALLY BY THE USERS OF THE PATENT AND TRADEMARK SYSTEMS, WHO BENEFIT MOST DIRECTLY FROM THE SERVICES WE PROVIDE.

(1) THE ADMINISTRATION IS COMMITTED TO REDUCE THE AVERAGE TIME IT TAKES TO GET A PATENT TO 18 MONTHS BY FY 1987. WE ARE CALLING THIS PLAN 18/87. FIGURE 1 DETAILS THE WORKFLOW TO CARRY OUT PLAN 18/87. BEFORE WE CAN REDUCE THE TIME IT TAKES TO GET A PATENT, WE MUST FIRST "TURN THE CORNER," THAT IS, BEGIN TO DISPOSE OF MORE APPLICATIONS THAN WE RECEIVE. LAST SEPTEMBER WE PROPOSED A 1982 BUDGET AMENDMENT OF $4,807,000 TO INITIATE PLAN 18/87. THIS SUBCOMMITTEE RECOMMENDED THAT, IN VIEW OF AUSTERE BUDGET MEASURES MANDATED BY THE CONGRESS AND ADMINISTRATION, THE AMENDMENT WOULD BE MORE APPROPRIATELY CONSIDERED IN A LATER SUPPLEMENTAL BUDGET REQUEST. WITH

FIGURE 1



THE SUPPLEMENTAL FUNDING FOR FY 1982 WE ARE REQUESTING, WE CAN TURN THE CORNER IN FY 1984, WHEN AVERAGE PENDENCY TIME WILL BE MORE THAN 26 MONTHS. EACH YEAR THAT WE FAIL TO HANDLE THE INCREASING WORKLOADS MAKES THE JOB OF CATCHING UP ALL THE MORE DIFFICULT AND COSTLY.

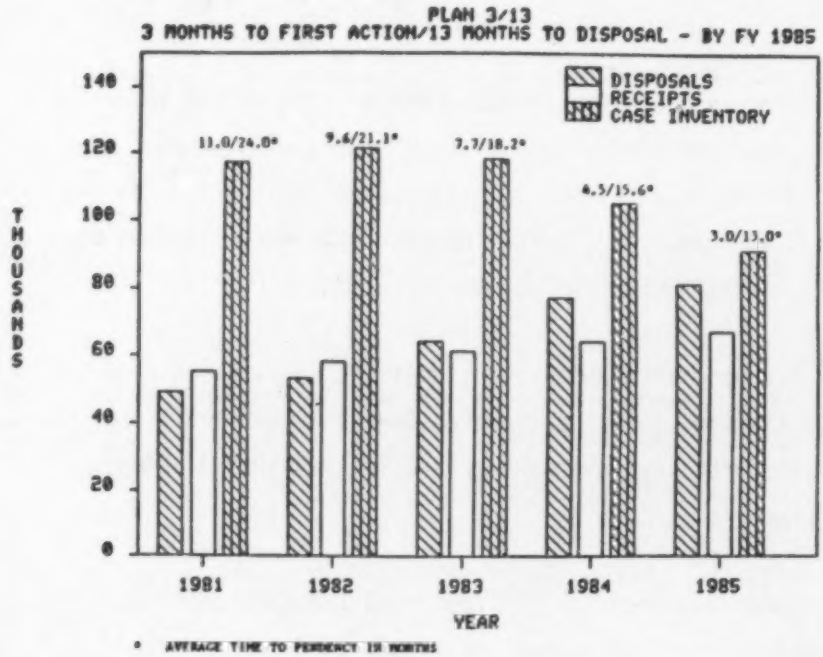
WE HAVE UNDERTAKEN AN ACTIVE RECRUITING CAMPAIGN TO HIRE THE PATENT EXAMINERS NECESSARY TO ACCOMPLISH PLAN 18/87. SUCCESSFUL COMPLETION OF THAT CAMPAIGN DEPENDS ON THE $2.5 MILLION SUPPLEMENTAL.

ADDITIONAL RESOURCES OF 249 POSITIONS AND $8.9 MILLION ARE PROPOSED IN 1983 TO PERMIT THE HIRING OF 245 NEW PATENT EXAMINERS AND TO IMPROVE THE SUPPORT SERVICES FOR THE EXAMINING CORPS, I.E., PREEXAMINATION PROCESSING, CLERICAL, DRAFTING, ASSIGNMENT AND ADMINISTRATIVE SERVICES, AND PRINTING. TO EXPEDITE THE PATENT APPLICATION EXAMINATION PROCESS, THE RECLASSIFICATION SYSTEM WILL BE EXPANDED AT A COST OF $1.7 MILLION, PARTIALLY OFFSET BY SAVINGS OF $380,000 IN OTHER AREAS OF INFORMATION DISSEMINATION. THE GROWING CASE BACKLOG AT THE

PATENT BOARD OF APPEALS WILL BE REDUCED AND WILL REQUIRE ADDITIONAL RESOURCES OF 10 POSITIONS AND $0.4 MILLION. FINALLY, INCLUDED WITHIN THE CLERICAL ACTIVITY ARE ADDITIONAL RESOURCES OF 15 POSITIONS AND $0.5 MILLION TO ELIMINATE HANDWRITTEN FIRST ACTION STATEMENTS THROUGH PROCUREMENT OF WORD PROCESSING EQUIPMENT AND OPERATIONAL PERSONNEL.

(2) THE SECOND ELEMENT OF THE THREE-POINT PLAN IS TO REGISTER TRADEMARKS IN 13 MONTHS, WITH AN OPINION ON REGISTRABILITY BEING GIVEN AN APPLICANT IN THREE MONTHS. WE ARE CALLING THIS PLAN 3/13, AND WE WILL ACHIEVE THESE GOALS BY FY 1985, AS SHOWN IN FIGURE 2.

FIGURE 2



TO ACHIEVE THE 1985 TRADEMARK PENDENCY GOALS, AN ADDITIONAL 21 POSITIONS AND $1.2 MILLION ARE REQUIRED TO PERMIT THE HIRING OF 15 NEW EXAMINERS AND INCREASED CLERICAL AND PRINTING SUPPORT. THE TRADEMARK TRIAL AND APPEAL BOARD WILL BE EXPANDED BY 6 POSITIONS AND $0.2 MILLION TO ALLEVIATE THE GROWING BACKLOG OF APPEALED CASES.

(3) THE FINAL ELEMENT OF OUR OVERALL PLANNING IS TO TAKE REALISTIC STEPS DURING THIS ADMINISTRATION TOWARD A FULLY AUTOMATED PATENT AND TRADEMARK OFFICE IN THE 1990'S. IT IS IRONIC THAT THE OFFICE THAT ISSUES PATENTS ON THE VERY LATEST OF MASS STORAGE AND RETRIEVAL TECHNOLOGY IS STILL VIRTUALLY AN ALL-PAPER AND HAND-FILE SYSTEM. WE ARE TAKING SOME INITIAL STEPS TO PLACE AUTOMATED SEARCH AND RETRIEVAL SYSTEMS IN THE HANDS OF PATENT AND TRADEMARK EXAMINERS THIS YEAR. ADDITIONAL RESOURCES OF 15 POSITIONS AND $7.7 MILLION IN FY 1983 WILL ALLOW THE PATENT AND TRADEMARK OFFICE TO UNDERTAKE PILOT STUDIES TO AUTOMATE PATENT AND TRADEMARK PROCESSES, AS WELL AS TO UPGRADE AND REPLACE EXISTING AUTOMATED DATA PROCESSING EQUIPMENT.

THE ABOVE PROGRAM INCREASES IN EACH OF THE THREE PROGRAM ELEMENTS WILL BE PARTIALLY OFFSET BY REDUCTIONS IN ADMINISTRATIVE OVERHEAD, CONSISTENT WITH DEPARTMENT OBJECTIVES, WHICH WILL INCREASE EFFICIENCY AS WELL AS REDUCE COSTS. SAVINGS ARE ANTICIPATED TO BE 186 POSITIONS AND $0.4 MILLION.

THE MAJOR INCREASES IN THE PROGRAM WILL BE PAID FOR BY THE SHARP INCREASES IN USER FEES THAT WE ARE RECOMMENDING. SPECIFICALLY, WE ARE RECOMMENDING THAT CONGRESS ENACT LEGISLATION WHICH WILL EVENTUALLY MAKE THE ACTUAL PROCESSING OF PATENTS 100% SELF-SUPPORTING -- 50% THROUGH FILING AND ISSUE FEES AND 50% THROUGH MAINTENANCE FEES PAID AT THREE INTERVALS OVER THE 17-YEAR LIFE OF A PATENT. THE ACTUAL PROCESSING OF DESIGN PATENTS, TRADEMARKS AND THE PROVISION OF OTHER SERVICES, E.G., SELLING PATENT AND TRADEMARK COPIES, WOULD BE 100% SELF-SUPPORTING IN FY 1983. OUR PROPOSALS EFFECTIVELY WOULD DOUBLE THE FEE RECOVERY RATIOS FOR FY 1983 IN P.L. 96-517. THIS ACTION IS CONSISTENT WITH THE ADMINISTRATION'S USER FEE INITIATIVES AND IS BASED ON THE POLICY THAT PERSONS WHO BENEFIT MOST DIRECTLY FROM SPECIALIZED FEDERAL PROGRAMS SHOULD PAY A GREATER PROPORTION OF THE COSTS OF THOSE

PROGRAMS. AS WITH EXISTING LEGISLATION, FEES RECEIVED BY THE PATENT AND TRADEMARK OFFICE WOULD BE AVAILABLE TO USE DIRECTLY IN IMPROVING SERVICE TO INVENTORS AND INDUSTRY.

FIGURE 3 SHOWS A COMPARISON OF THE PTO PROGRAM LEVELS FROM FY 1979 THROUGH FY 1985. PRIOR TO 1983, THE ENTIRE PROGRAM WAS FUNDED THROUGH APPROPRIATIONS, AND FEE INCOME WAS RETURNED TO THE GENERAL FUND OF THE TREASURY. BEGINNING IN FY 1983 WE ARE REQUESTING THAT FEE INCOME BE AVAILABLE TO THE OFFICE TO CARRY OUT THE PROGRAM RECOMMENDED.

FIGURE 3

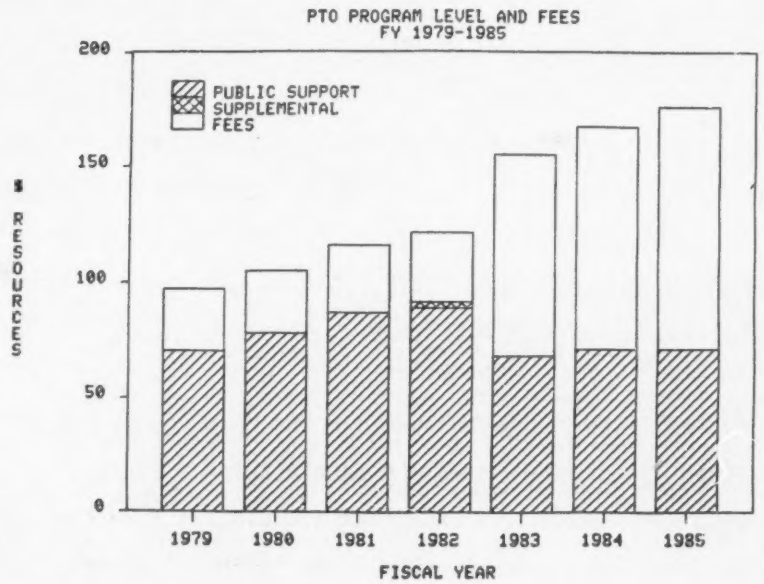
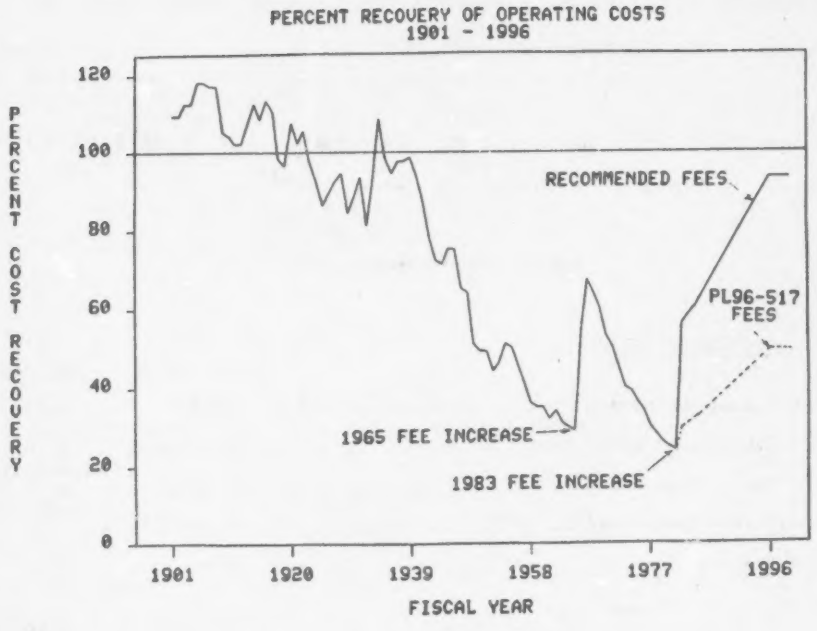


FIGURE 4 SHOWS THE PERCENT RECOVERY OF OPERATING COSTS OF THE PATENT AND TRADEMARK OFFICE FROM THE TURN OF THE CENTURY THROUGH FY 1985. UNDER THE FEE RATIOS RECOMMENDED BY THE ADMINISTRATION, THE PATENT AND TRADEMARK OFFICE WOULD RECOVER ABOUT 58% OF ITS OPERATING COSTS DURING THE THREE-YEAR PERIOD OF FY 1983 THROUGH FY 1985. THEREAFTER, THE PERCENTAGE RECOVERY WOULD INCREASE AS PATENT MAINTENANCE FEES ARE RECEIVED, UNTIL THE OFFICE WOULD RECEIVE ABOUT 93% OF ITS OPERATING COSTS FROM FEE REVENUE BY FY 1996.

FIGURE 4



I HAVE ATTACHED TO MY STATEMENT A LIST OF THE FEES WE ARE RECOMMENDING, COMPARED WITH THOSE ESTABLISHED IN 1965. WE BELIEVE THE NEW FEES ARE CLEARLY JUSTIFIED. THEY DO NOT QUITE KEEP UP WITH INCREASES IN THE CONSUMER PRICE INDEX THAT HAVE OCCURRED SINCE 1965. FROM FY 1983 THROUGH 1996 THEY WILL RECOVER A SLIGHTLY LOWER AVERAGE PERCENTAGE OF OPERATING COSTS THAN CONGRESS SOUGHT IN 1965. AND THE PROPORTIONATE INCREASE IN FY 1983 WILL BE LESS THAN THAT IN 1965. THE 1965 FEE INCREASE DID NOT HAVE ANY SIGNIFICANT IMPACT ON THE USE OF THE PATENT SYSTEM BY INVENTORS AND INDUSTRY. PATENT FEES ARE A VERY SMALL FRACTION OF THE TOTAL COSTS TO DEVELOP A CREATIVE IDEA TO A COMMERCIAL PRODUCT.

WE BELIEVE THAT THE PROGRAMS WE ARE PURSUING WILL GIVE INVENTORS AND INDUSTRY A FIRST-CLASS PATENT AND TRADEMARK OFFICE. WE BELIEVE ALSO THAT IN THIS PERIOD OF OVERRIDING NEED TO HOLD DOWN FEDERAL EXPENDITURES, THE ONLY REALISTIC ALTERNATIVE TO THE HIGHER FEES WE ARE RECOMMENDING WOULD BE CONTINUED DETERIORATION OF SERVICES TO THE PUBLIC WE SERVE. THAT SIMPLY WOULD NOT BE ACCEPTABLE.

TO BEGIN TO CARRY OUT THE COMPREHENSIVE PROGRAMS WE ARE RECOMMENDING, WE URGENTLY NEED THE $2.5 MILLION FOR FY 1982, SINCE NEW USER FEES WILL NOT BE EFFECTIVE UNTIL FY 1983.

MR. CHAIRMAN, THIS CONCLUDES MY STATEMENT. I WILL BE PLEASED TO RESPOND TO ANY QUESTIONS YOU MAY HAVE.

PATENT AND TRADEMARK FEES

	Proposed	Current
PATENT PROCESSING FEES		
Base Filing (includes up to 3 independent and 20 total claims)	$300	$ 65
Independent Claims Over 3	$ 30 each	$ 10 (over 1)
Total Claims Over 20	$ 10 each	$ 2 (over 10)
Multiple Dependent Claim(s)	$100*	...
Base Issue	$500	$100 (+$10 per page)
Appeals		
Filing	$115	$ 50
Hearing	$100*	...
Brief	$115	$ 50
Petitions for Automatic Extensions of Time		
First	$ 50*	...
Second	$100*	...
Third	$200*	...
Design Patent		
Filing	$125	$ 20
Issue	$175	$ 30
TRADEMARK PROCESSING FEES		
Filing	$200	$ 35
Renewal	$300	$ 25
Section 8 Affidavit	$100	$ 10
Section 15 Affidavit	$100*	...
Section 8 and 15 Combined	$150*	...
Opposition	$300	$ 25
Cancellation	$300	$ 25
Appeal	$100	$ 25
Hearing in Opposition, Cancellation or Appeal..	$100*	...
SERVICE FEES		
Patent Copy	$ 1.00	$ .50
Trademark Copy	$ .40	$ .20
Design Copy	$ .40	$ .20
Record Assignment	$20.00	$ 20.00

*New fee categories proposed for institution on 10/1/82.

INTRODUCTION OF ASSOCIATES

Mr. MOSSINGHOFF. Thank you, Mr. Chairman. Accompanying me this morning is Margaret Laurence, Assistant Commissioner for Trademarks. To her right is Rene Tegtmeyer, Assistant Commissioner for Patents. To my left is Jim Lynch, Budget Officer, and Nancy Richards Director of the Office of Budget, Department of Commerce.

We really appreciate this opportunity to appear before you this morning to support the President's request for appropriations for the Patent and Trademark Office for fiscal year 1983 and to request supplemental appropriations for fiscal year 1982.

SUMMARY OF BUDGET PROPOSAL

I will skip the summary of the request which you have already indicated.

The fiscal year 1982 supplemental request and the fiscal year 1983 program level reflect a strong commitment to improve substantially the service of the Patent and Trademark Office to inventors and industry. There is a lot of room for improvement.

During fiscal year 1981, we added 20,000 cases to an already huge backlog of pending patent cases, bringing the total to 206,000 cases. We will add another 20,000 to the backlog this year. By the time we are able to turn it around in 1984, the backlog will be nearing 250,000 pending patent applications.

In addition to delaying the granting of patents and thus inhibiting the introduction of new technology into commerce, huge backlogs clog all aspects of our operations, greatly decreasing efficient processing.

On the trademark side, we have 116,000 pending trademark applications. We added about 6,000 to the backlog last year. The time it takes to register a mark is about 2 years. That is an all-time high. It has never taken longer than that for the Government to register trademarks used in commerce.

THREE-POINT PROGRAM

The administration is pursuing an aggressive three-point program for the Patent and Trademark Office to turn things around. The cost of the improvements we have formulated, as you pointed out, will be borne principally by the users of the patent and trademark systems, who benefit most directly from the services we provide.

We have three plans, Mr. Chairman, that we focused on to turn things around in the Patent and Trademark Office. The first is what we are calling plan 18/87; that is to reduce the time it takes to get a patent to 18 months by 1987. First, we must begin to stop the annual 20,000 case increase to the backlog by 1984. The plan is to decrease the backlog by 1987 so pendency will be 18 months, and the number of cases pending in the Office will be approximately 150,000, which is a pretty good work flow-through for the Office. The chart showing how we are going to accomplish that is included in the statement.

To support that, we have to increase our examiner staff quite sig-

nificantly. We have about 815 examiners, actually working examiners, not counting supervisory personnel, now. We need to increase that by roughly 200 a year over the next 2 fiscal years.

This fiscal year we have an extremely active recruiting program. We visited 155 universities, either our examiners or the patent bar and industry bar acting in our behalf. All of our examiners are quality engineering graduates. There is a lot of competition for these people.

This is more in line with the need for a supplemental. We simply have to have some assurance that the supplemental is going to be there for the spring recruiting or we will lose the chance of hiring 235 quality engineering graduates out of this year's class.

On the trademark side, the second element of our three-point plan is to register trademarks in 13 months by 1985 and to be able to give an opinion on registrability to an applicant in 3 months. We are calling that plan 3/13. Again, in my statement figure 2 shows the work flow to achieve that level.

Finally, the third element of the plan is to begin to move toward automated systems. It is somewhat ironic that the Office in the U.S. Government that examines the latest technology on mass information storage and retrieval computers simply doesn't make use of the things we examine. We are virtually an all-paper and hand-file system in terms of retrieving information examiners have to have.

We have an estimated 24 million documents that our 800-plus examiners need to go through. That is all in paper. Surveys have indicated consistently that between 6 and 7 percent of those references are either missing or misfiled. So it could well be that people are getting patents because we are missing what patent lawyers call prior art that should be applied against the application.

We are taking strong steps in 1983 to begin to automate the Office to be able to move toward a fully automated Patent and Trademark Office by the 1990's. It is going to be an immense job and we really have to get started now.

The good news is the mass storage and retrieval technology we are going to need to rely on is really coming into its own with micro-processors and so on. Technology is on the way to help us with this backlog, this tremendous file of documents we need to keep track of and search.

PROPOSED FEE CHANGES

The major increases that we are proposing will be paid for by the sharp increases in user fees that we are recommending. Specifically, we are recommending that Congress enact legislation which will eventually make the actual processing of patents 100 percent self-supporting—50 percent through filing and issue fees and 50 percent through maintenance fees paid at three intervals over the 17-year life of a patent. The actual processing of design patents, trademarks, and the provision of other services—the 13 million patent copies we sell each year, for example—would be 100 percent self-supporting under our proposal in 1983.

Our proposals effectively would double the fee recovery ratios for fiscal year 1983 contained in Public Law 96-517. This action is consistent with the administration's user fee initiatives and is based on the policy that persons who benefit most directly from specialized Federal programs should pay a greater proportion of the costs of those programs. As with existing legislation, fees received by the Patent and Trademark Office would be available, as you pointed out in your opening statement, to use directly in improving service to inventors and industry.

The chart in figure 3 of my statement shows the public support versus Federal income that we have projected for fiscal years 1983, 1984, and 1985. The program has a good increase. The resources went from $119 million now to $155 million, which will give us the ability in 1983 to really begin to attack the problems we have.

Based on the chart, you can see that the amount of public funding actually will decrease, with the difference being made up by the administration's proposals for user fee recovery.

Figure 4 in my testimony shows the percent recovery of operating costs to the Office from the turn of the century through the end of this year and to the end of the century; that is, for the whole 20th century. It shows that our proposal to raise fees to the 100 percent fee recovery is really consistent with history that pertained up to World War II. Up to that time the Office was either self-supporting or, in some years, was actually a money-maker, actually a net source of revenue to the Treasury.

It is also consistent with virtually every foreign patent office, which is virtually self-supporting and not dependent upon taxpayer support for their operations.

I have attached to my statement a list of fees that we are recommending compared with those that were established in 1965. Perhaps the most controversial of those fees is the patent filing and the patent issue fees. There we are recommending an increase to $300 and $500 respectively from the current fee of $85 and $145.

We think the fees we are proposing are fully justified. They do not quite keep up with increases in the Consumer Price Index that have occurred since 1965. That is just for the filing and issue.

From 1983 to 1996 our fees will recover, on the average, a slightly lower percentage of operating costs than Congress sought when it increased fees by statute in 1965. Although the increase that we are proposing is sizable—we are hitting what some people refer to as sticker shock with the fee increase—but the proportionate increase is not as great as the increase was in 1965. We looked at the effects of that fee increase in 1965 and concluded that it had no significant impact on the use of the patent system particularly by the individual inventors and small businesses. Patent fees are a very small fraction of the total cost it takes to develop a creative idea to a commercial product.

We believe that the programs we are pursuing will give inventors and industry a first-class Patent and Trademark Office. We believe also that in this period of overriding need to hold down Federal expenditures, the only realistic alternative to the higher fees we are recommending

would be to have a continued deterioration of the Office, which is simply unacceptable to everyone.

To begin to carry out the comprehensive programs we are recommending, we do urgently need the $2.5 million supplemental we are requesting for 1982. Since new user fees will not be effective until 1983, and since we really do have to be in a position to tap the engineering graduating class coming out of the universities this spring.

Mr. Chairman, that concludes my summary of the statement. I would be pleased to respond to your questions.

AUTOMATION

Senator WEICKER. How long do you estimate the automation of the Office is going to take? I am talking about the actual equipment, et cetera, all of it, from now until everything is in place.

Mr. MOSSINGHOFF. I would say we probably won't have everything in place until 1990. There is a tremendous cost of putting these 24 million back-filed documents on a computerized file.

We are not going to let that stop us from getting started. We have coined a new word. If we have a back-file problem we are going to work on the front-file. We are going to install the computer terminals. In fact, by the end of April of this year we will have terminals in both patents and trademarks, so we will begin to use the commercial systems that are available.

Senator WEICKER. Under what kind of funding plan is your 1990 projection achieved? Do you have a plan laid out as to how much you will be requesting for this in the next 8 years?

Mr. MOSSINGHOFF. I think we do. We could provide a ballpark estimate of what we need.

Now again, the major cost would be paid for by the users of the system as they use these operational systems. That would figure into the fees we would charge the users. They would be augmented by appropriations, which would decrease as the fees increase.

It is clear that under the existing formula any capital equipment, if we buy big computers, that would come from appropriated funds. We have not defined the amount. We are currently in the process now of a 2-year automation study. We have held one set of hearings to publish a draft and we are having another set of hearings this spring to do exactly that, to try to lay out a blueprint for how to go from here until we are fully automated.

The first thing to do, though, is to get started. That is what we are doing now. We are actually putting the machines in the hands of the examiners so we know what works and what doesn't work. There is going to be, obviously, some resistance to go from paper to machines. There always is.

Senator WEICKER. I think you should have done it a long time ago.

Mr. MOSSINGHOFF. I agree.

Senator WEICKER. I would like to see a blueprint as soon as possible. I would like to see you get the money and get it over with because in the long run it is going to save such enormous amounts of money. If

you know what you are going to do, there is no point in dribbling into it. Of all the agencies of the Government, yours should certainly be computerized, automated, whatever word you want to use for it. I am just a little bit concerned that we know what the objective is but we are not going at it and getting it over with. There is no reason, to my way of thinking, why this job should not be done in 4 years rather than 8, absolutely none.

Mr. MOSSINGHOFF. We are pushing this 2-year study. We have the draft out 14 months ahead of time. I guess we could say by June 1 we will have a blueprint.

Senator WEICKER. You will certainly have the support of this chairman and this subcommittee. I advise you not to go slow, because in the long run it simply saves such enormous amounts of money that it is best to get on with it and be done with it.

Mr. MOSSINGHOFF. Good. I appreciate that.

IMPACT OF PROPOSED FEE LEGISLATION ON SMALL INVENTOR

Senator WEICKER. I am concerned that the proposed fee increase will have a serious impact on individual inventors and small businesses. Why don't you give me your views on that.

Mr. MOSSINGHOFF. As I indicated in my summary, we are focusing on the filing and issue fees because those are the things the small inventor and small business have to pay up front. When a similar fee increase occurred in 1965, there was really no significant impact. But we have heard the same concern you have heard, that this could have an impact. If that is the judgment of you and your subcommittee, then we would be pleased to work with you to try to soften the impact upon these specific groups. We haven't heard any concern, and I don't know whether your committee has or you have heard about the large companies here and the 40 percent of our cases that are filed from abroad. When U.S. industry files in Europe, they pay premium prices at 100 percent plus cost recovery rates in foreign patent offices. There has been no concern expressed about that and no concern expressed about the large companies since patent fees are a very small fraction of the corporate patent budget. If there is concern about individual inventors and small businesses, we would be pleased to work with you.

Senator WEICKER. I very much appreciate that. I would like to work with you on that. We have heard—all of us on the Small Business Committee—that there has been some concern. I would like to try and see if we can work that out.

PROPOSED FEE SCHEDULE

With the actual fees themselves, please briefly describe the proposed fee schedule as it relates to current law. The private bar claims that the patent fee will increase from $230 to $3,600. Is that correct?

Mr. MOSSINGHOFF. In round numbers, that is correct. The filing fee would be $300 and the issue fee would be $500. Then we anticipate that maintenance fees over the life of the patent would total about $2,400 based on the 1983–85 budget estimates.

The idea of maintenance fees was established last year in Public Law 96-517. It is a good one, I think. It says you give somebody time to earn money on their patents. You pay $400 and keep your patent in force for 8 years. That is a long time to try to develop an invention for a fairly modest amount of maintenance fee. After that, the maintenance fee goes up sharply to $800 and then $1,200. By that time, if you are successful in exploiting the invention, you are making money. If not, you should let the patent lapse and let somebody else come in and use the invention in their commercial activities.

INCREASED NUMBER OF POSITIONS

Senator WEICKER. An increase of 183 positions is requested to continue the program to reduce patent pendency to 18 months by 1987. This is in addition to a 1982 supplemental request for 126 positions. Will these new positions be adequate to achieve patent pendency of 18 months by 1987 or will you need increased positions in 1984, 1985, and 1986?

Mr. MOSSINGHOFF. We will hire roughly 200 additional examiners in 1984 and 1985. It is a 4-year staffing program, starting in 1982 and running through 1985.

Senator WEICKER. What is going to happen is you load up on all of these personnel and then let's say you get all of your technology in place. I see sort of two activities going on here which are somewhat contradictory.

I realize you have to get this patent pendency down. I don't deny that. But I think it is also true that if the assumptions I am making are correct vis-a-vis the data processing you are putting in there, you are not going to need these people after that is in place.

Mr. MOSSINGHOFF. I think one of the assumptions is that the automation is going to significantly cut back the time the examiners spend.

Senator WEICKER. I hope.

Mr. MOSSINGHOFF. It is going to cut back slightly when fully in place. But I think it is really going to be used to increase the quality of patents so industry can depend on what we issue.

The patent examiner spends typically about 15 hours on a case. About 3 to 4 of those hours are spent actually looking at the paper files. If we cut that time in half through automation, we are still only saving 1.5 or 2 hours of the total 15 hours that the examiner spends.

There is a lot more involved than just the paper searching, and where we get our real savings is we don't have to have this massive amount of filing, retrieval, handling, and storage and all. We do that by automation. But I think our goal would be to increase the quality of the patents that we issue, and probably not significantly reduce the time.

MANAGEMENT STUDY

Senator WEICKER. My only request here, and maybe you are already doing it, but do you have some sort of an analysis, a management study that is integrating these various activities going on?

Mr. MOSSINGHOFF. Yes; for the foreseeable future, for the next 2 or 3 years, automation is probably going to be a net eater of time rather than provider of time because we are going to be doing two things. We will be doing things in an automated way and the old-fashioned paper way. We want to see how the automation works in terms of quality. Eventually automation is going to save time in searching, but by that time the number of documents will have increased significantly. There are some estimates that our 24 million documents are going to be 50 million by the turn of the century. We will save some time, but I don't think the programs are in anyway opposed to each other. They are complementary, both going toward efficiency. If we get the backlog down, we can handle everything more efficiently without all of these cases clogging the pipeline, and with the automation we intend to work on the search-file side of the efficiency. So I think they are complementary.

We are confident if we hire these 600-plus net new examiners over the next 4 years there is going to be no need at all to RIF. We can easily adjust our staff as we go on to respond to the workload.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. Fine. Gerry, I have other questions which I will submit for response in the record. Thank you very much.

Mr. MOSSINGHOFF. Thank you very much, Mr. Chairman.

[The following questions were not asked at the hearing but were submitted to the Office for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

Fiscal Year 1982 Supplemental

Last November, the full Committee denied without prejudice your request for an additional $5 million for FY 1982. You are now requesting $2.5 million in supplemental funding. Is there any connection between this supplemental request and the new fee schedule which you are proposing for FY 1983?

Yes, there is a definite connection. This supplemental request represents the first year of our six year plan to revitalize the patent process. The enactment of the $2.5 million supplemental appropriation would provide firm evidence to the patent user community that this Administration and Congress are committed to a revitalized PTO. A positive action of this sort could well relieve concern over higher fees and the ability of the PTO to improve services in 1983 and future years. The proposed fees reflected in the 1983 request will provide the majority of the resources needed to implement this plan.

What are the consequences of not funding this $2.5 million supplemental request?

The schedule to meet our goal of 18 months pendency by 1987 will slip by more than a year. We must start to implement the Pendency Reduction Program in 1982 for the following reasons:

- Passage of this supplemental will demonstrate to industry and inventor groups that the Administration and Congress are committed to a first class patent and trademark system and are vigorously pursuing that goal.

- Our plan to revitalize the patent process is based upon a phased increased production that links examiner output to pre- and post-examination capacity.

- Our recruitment effort is aimed at graduates from the spring 1982 graduating classes. If we are unable to hire when these students finish their studies, an entire year will be lost.

- Our backlog grew by 20,000 applications last year and will grow even more in fiscal year 1982. This increasing volume will continue to erode efficiency and push up the ultimate cost of the program.

I understand that there is some urgency in determining whether you will be able to rely on the receipt of these funds prior to the supplemental appropriations bill becoming law. Please discuss what this urgency is and what response you will need in order to proceed in a timely fashion.

Our recruitment effort to hire engineers from the spring 1982 graduating classes is proceeding within the constraints of our current resources and hiring authority. It is necessary to start the selection process considerably before the projected entry on duty or graduation dates. We must be positive that funds will be provided before we can commit the Federal Government to hiring prospective individuals.

Actual hiring of the bulk of the new examiners, of course, cannot precede the passage into law of the request. Conference Committee approval in April or early May, however, would encourage us to vigorously pursue the initial selection process with maximum effectiveness.

Fee Increase: Effect on Small Business and Individual Inventors

I am concerned that the proposed fee increase will have a serious impact on individual inventors and small businesses. What are your views?

We don't think that there will be a significant impact on small businesses and individual inventors. Our proposed fees are less than the impact inflation would have had if the Consumer Price Index had been applied to the fees since 1965. Also, the increases that the 1965 fee schedule represented over the previous fee schedule were of approximately the same magnitude and we did not see a decrease in the numbers of patent applications that were unassigned to commercial enterprises.

I plan to introduce legislation to allow small businesses to retain the fee schedule under current law. If this Committee decides that additional appropriations should be provided to the PTO in order to lower fees, what would the Administration's position be?

This Administration is sensitive to the needs of the small business community. If the resources can be made available to subsidize small enterprises and individual inventors and lessen the impact of these higher fees, we would comply with such a law. We do believe, however, that a separate fee schedule for eligible applicants would not be the optimum means of administering such support. A special subsidy or rebate fund appropriated annually would facilitate our management of the program and would not complicate our international treaty obligations.

If legislation were enacted to target and assist small businesses and individual inventors, how would the PTO administer the program?

We would propose that anyone claiming eligibility for the subsidy would simply so state in the oath that must accompany an application at the time the initial fee is payable. No independent eligibility examination would be necessary. Criminal sanctions, which would automatically apply (e.g., 18 U.S.C. Sec. 1001), and the rule that fraudulently obtained patents are unenforceable would deter abuse.

How many small businesses and individual innventors file for patents?

Unfortunately we collect data by patents granted, not patents filed. We can, however, extrapolate from those granted to applications on the basis of recent experience. The ratio of grants to applications is roughly 2 to 3. Therefore, in calendar year 1981, the 10,243 grants to independent inventors, those who have not assigned their patent rights at the time of issue, evolved from roughly 15,000 applications. Based on statistical analysis of the 1981 patent grants, we processed 5,000 issues or approximately 7,500 applications from small businesses with fewer than 500

employees annually. In 1983, we expect approximately the same number of inventors in these two categories as in 1981.

If we were to target appropriations to help those 15,000 (5,000 small businesses and 10,000 individual inventors) defray their filing and issue fees by one-half, how much money would you need?

Our most current estimates of patents granted to those groups you have referred to would require $3,480,000 for issue fee support. The application fee support for those eligible would be $3,852,000 or a total of $7,332,000. If you were to include universities as another group that would have difficulty absorbing the new fees, you would add an additional $153,000 for a total of approximately $7,485,000.

Is the fee schedule attached to your statement the final schedule?

The schedule is tentative at this time. The estimates upon which these specific fees were based were developed before the budget was finalized. If the law is enacted exactly as proposed, we would need to revalidate our cost estimates and workload projections. The schedule that will evolve from these revalidations, volume sensitivity analysis currently underway, and the rulemaking process, however, should be very close to our tentative fee schedule.

Average Fee Increase

With the actual fees themselves, please briefly describe the proposed fee schedule as it relates to current law. The private bar claims that the patent fee will increase from $230 to $3,600. That is a very significant increase. Please discuss.

In brief, the proposed fee schedule will be:

Patents	
Base Filing	$300
Base Issue	$500
Appeals (Filing)	$115
Trademarks	
Filing	$200
Renewal	$300

These represent the fees which, along with some miscellaneous fees, are designed to recover roughly 50 percent of the patent process cost and 100 percent of the trademark process cost. Public Law 96-517, the current law, specifies 25 percent recovery of patent costs and 50 percent of trademark costs.

The current amount you are referring to, $230 represents the combined average filing and issue fees. Under our proposal, the combined average filing and issue fee would be $830. Our current estimate of total fees is $3,230. This sum includes the filing and issue fees and the proposed maintenance fees. These fees are paid periodically over the life of the patent to keep it in force. If a patent has not proved to be commercially rewarding, a patentholder can allow it to lapse and save the additional maintenance fees. This will free such patents for unrestricted use sooner. Based on the 1983-1985 budget projections, our maintenance fees, if they

were fully effective, would be $400 due 3½ years after grant, $800 due 7½ years after grant, and $1,200 due after 11½ years. The total fee for a patent held valid for 17 years would be $3,230.

Congressional Oversight: Fee Schedule

The proposed fee schedule empowers the Commissioner to determine every three years what costs are incurred by the Office in processing patents and trademarks and raising the fees accordingly without any oversight? Please discuss.

The proposed fee legislation would not free the Patent and Trademark Office from Congressional oversight. Budgetary control would be maintained through the authorization and appropriations process whereby an annual budget request indicating the proposed program funding level, budget authority and the availability and use of fee revenues would be approved by the Congress. Additional budgetary control would be maintained by the Office of Management and Budget (OMB) through the apportionment process.

Patent Pendency

You are requesting a sizeable increase in professional and clerical patent examination positions for 1983, yet patent pendency will increase to 26.7 months. Why can't patent pendency be maintained at the 1982 level of 25.0 months or even reduced?

The average patent examiner can process about 100 cases per year. This average is only attained through experience. It normally takes four years for a new employee to reach average productivity. Last year our inventory grew by 20,000 cases. To hold even with the incoming applications would require 215 fully trained examiners and all their associated support staff. We propose hiring 235 new examiners (including 50 replacements) with the 1982 supplemental and 245 additional examiners (including 50 replacements) in 1983, but they will not be fully trained for four years. We plan to "turn the corner" in 1984 and begin reducing pendency time and backlog.

Pendency: Additional Positions Needed in Outyears

An increase of 183 positions is requested to continue the program to reduce patent pendency to 18 months by 1987. This is in addition to a 1982 supplemental request for 126 positions. Will these new positions be adequate to achieve patent pendency of 18 months by 1987 or will you need increased positions in 1984, 1985, and 1986?

Our plan to revitalize the patent process is an integrated plan that takes into account the capacity of each succeeding program element as we move the backlog inventory through the process. For this reason, we have phased the increase of the workforce to maximize our use of resources. We will need to hire approximately 200 more examiners in 1984 and 1985 and roughly 80 more in 1986 and 1987. Attritions will offset between 50 and 80 of these new hires each year.

Increased Fees Hurt Small and Independent Inventors

You are showing offsetting receipts for fees collected under existing and proposed legislation of $87 million. What provision, if any, have you made for charging fees to small and independent inventors who may not be able to afford the increased patent processing fees?

We have established only one proposed fee schedule to be paid by all applicants. All available evidence leads us to conclude that the impact on the small business or independent inventor will be minimal. The 1965 fee schedule, which was a 380 percent increase over the previous rates, caused no decline in the number of independent inventors who filed for patents. Since our current proposal is, at 360 percent, less than the previous increase and less than the impact of inflation since 1965, we do not recommend a separate fee schedule for small inventors.

Pendency: Additional Positions Needed in Out Years

You are showing a reduction of 114 permanent positions for the information dissemination activity (PAT-44). This amounts to a decrease of $1.5 million ($886,000 on PAT-48 and $678,072 on PAT-52). Other services, however, total $3.7 million ($1,374,000 on PAT-48 and $2,311,000 on PAT-52). Please provide a list of contractual services being used in lieu of Federal personnel. Show contractor's name, services provided, and contract amount.

Contractor	Service Provided	Estimated Amount
Macro Systems, Inc.	Fulfillment of all services involved in the sale and distribution of copies of patents and trademark registrations	$1,221,600

At this time, the above contractor is the only one that can be identified by name, service provided, and contract amount. The PTO anticipates additional services to be contracted in 1983 under A-76 procedures for document reproduction, document data entry, bookbinding, and maintenance of files and microfilm in lieu of Federal personnel. Proposed services under A-76 examination follow:

Reproduction/sale of patent and trademark copies
Photocopy services
Public search facility file maintenance
Microfilm services
Allowed/patented file maintenance
Reproduction of references cited by patent examiners
Warehouse services for patent and trademark files
Maintenance of patent examiner search files.

Contractual Services Reflected in the 1983 Request

Patent printing and other contracts increase $11.8 million from the 1983 base of $16.9 million to the 1983 estimate of $28.7 million. Please provide a list of the contractual services supporting the 1983 base and 1983 estimates. Show contractor's name, service provided, and contract amount.

A listing of potential contractors for 1983 cannot be provided at this time because of Federal procurement regulations on competition.

1983 Base

Service Provided	Estimated Amount
Preparation of computer magnetic tapes for the full text data bank	$ 9,227,000
Offset printing	5,168,000
Subtotal Patent printing	14,395,000
Keypunching services	92,000
Rental of ADP system including all hardware, software, support systems, license fee, and maintenance	909,000
Systems design programming and computer processing to support the Technology Assessment and Forecast and Classification Program	965,000
Steel shoe cases	227,000
International non-patent literature and abstracting services	121,000
Retrieval and support services	45,000
Photoprints of plant patents	92,000
Rental of underground storage facilities and service requests	15,000
Lease space to store microfilm records	15,000
Purchase Kodak 16mm negative film	24,000
Subtotal other contracts	2,505,000
Total 1983 Base	16,900,000

1983 Estimate

Service Provided	Estimated Increase
Preparation of computer magnetic tapes for the full text data bank	$560,000
Offset printing	313,000
Subtotal Patent printing	873,000

Service Provided	Estimated Amount
Pilot operation of full text searching.....	1,500,000
Concept design for automated patent document retrieval system.....	1,000,000
Application of full text input and photocomposition for patent printing.....	575,000
Reproduction of references cited by patent examiners including A-76 contracts.....	938,000
To support working capital fund.....	4,000
Full-scale automation of Trademark Reporting and Monitoring System (TRAM 2).....	869,000
Fulfillment of all services involved in the sale and distribution of patents and trademark registrations (A-76 contract).....	1,374,000
Data Base Management System (DBMS) to provide on-line access to patent classification data. Increased reclassification. Support of patent pendency reduction including A-76 contracts.....	2,311,000
Replacement of computer hardware/network upgrade. Augmentation of optical character recognition (OCR) mini computer capability. Increase data systems support.....	2,239,000
Data systems support for patent pendency reduction	115,000
Miscellaneous program initiative systems.....	2,000
Subtotal all other contracts.....	10,927,000
Total 1983 Increase Estimate.....	11,800,000

Questions Submitted by Senator Ernest F. Hollings

Increased Fees

The 1983 request assumes that fees for patents and trademarks will be increased by $39 million over the fee schedule that is to take effect on October 1, 1982. The fees that go into effect on October 1, were authorized by P.L. 96-517. The law originated as H.R. 6933, introduced on March 26, 1980 but not reported by the House Judiciary Committee until September 9, 1980 and not signed into law until December 12, 1980.

While you are 10 days ahead of your 1980 pace in getting your new fee bill introduced by the Senate on March 16, how confident can you be that the fee increase will be approved by

the Congress before September 30 in view of the time it took to get through in 1980?

We are confident that the Congress will be convinced of the merit of our proposal and pass this measure by June 1. The would be early enough to allow us to complete the rule making process and put the fee structure in place by October 1.

Our confidence is based on the following reasoning:

- The request we are proposing represents a substantial savings in direct budget authority to be appropriated by Congress and supports the President's efforts to minimize the budget deficit.

- The program we are proposing will revitalize the Patent and Trademark Office. The revitalization is essential to the economic health of the American economy and the patent and trademark user communities.

- The costs of this revitalization program will be borne primarily by those who benefit directly from the protection patents and trademarks afford.

- The fees we are proposing, although increasing considerably from those currently in effect, represent only a small fraction of the cost of taking an invention from conception to the marketplace so the impact on inventors will be minimal.

The 1980 bill supplanted the fee schedule that had been in effect for many years, and at that time everyone acknowledged a need for increased fees. Where do you find a similar strong interest in increasing the patent and trademark fees this year?

This Administration is convinced that the Patent and Trademark Office must provide the most effective and expeditious patent and trademark protection possible. All the interested parties that have contacted us are in unanimous agreement on that. We have developed a plan that will encourage investment in new technology and foster consumer confidence through positive product recognition.

The only question is: "Who will pay for it?" We believe that those who benefit most directly from the limited protection from competition that patents and trademarks provide should bear the greater portion of the burden of improving the services and products they receive.

In the staff briefing last month, the Commissioner indicated that the month of January had been spent in briefing the various patent and trademark groups to enlist their support for their fees. The staff was told that the various groups that the Commissioner talked to were supportive of increased fees because it was a way to improve the office and overcome the huge backlogs. In the last few weeks, my office has heard from several of these groups such as the U.S. Trademark Association, the American Bar Association, etc., protesting the proposed increase in fees. In view of the position of those groups, would it not appear unlikely that the Judiciary Committee would move very fast on your proposals?

We hope that the justification we have presented and our testimony before this Subcommittee and the House Judiciary Subcommittee will convince the members that the expeditious passage of this proposal into law is in the best interests of the Nation.

The Administration believes that a first class Patent and Trademark Office is vital to the economic recovery of the United States. The Patent Bar and the inventors' groups that have contacted us all want improved PTO services and products. We trust that the Judiciary Committee will see that delay will only worsen a situation that all parties agree needs improvement.

While you do point out in your statement that prior to 1939 the Patent and Trademark Office recovered more than its operating costs, the recent prevailing philosophy has been to recover about 50% of the costs of the office. The other half was supposed to be the interest of the public in encouraging inventiveness. Am I not correct that under the present fee schedule the inventor has only to pay a minimum of $175 to obtain a patent? What would be that inventor's cost under the schedule that goes into effect October 1? Am I not correct that under your proposed schedule that a patent would cost that inventor at least $3,200?

The current average combined filing and issue fee is $230. We have not worked out the exact fee schedule under the provisions of Public Law 96-517 which goes into effect on October 1. We estimate, however, that they would be approximately $400 to $450. One must bear in mind that a program decrease of $39 million, an amount equal to proposed anticipated revenue, would drastically reduce output.

The base filing and issue fees that we are proposing are $300 and $500, respectively. The $3,200 fee that you refer to includes both the filing and issue fees and the hypothetical new maintenance fee structure. Maintenance fees are paid periodically over the 17 year life of the patent to keep it in force. If a patent has not proved to be commercially rewarding, the patent holder can allow it to lapse and save the fee. Our fees are totally in line with the fees of the other major industrialized nations, all of whom have some form of maintenance fee structure. Maintenance fees in the Federal Republic of Germany, for instance, total nearly $10,000 over the life of a patent. Those for the European Patent Office, effective for five countries would total roughly $30,000. Maintenance fees based on the 1983-1985 budget would be $400 due 3½ years after grant, $800 due after 7½ years, and $1,200 due after 11½ years. The total fee for a patent held valid for the maximum period allowable would be $3,200.

The General Accounting Office supports the increase in fees that Congress enacted in P.L. 96-517. However, GAO has recognized that increased fees may deter the obtaining of patents by independent inventors and small business concerns with limited resources. In their report of November 14, 1978, GAO recommended that consideration should be given to lower initial fees for such groups. Does your proposed fee schedule give any consideration to individual inventors or firms with limited resources?

No, our proposed fee schedule is based upon the complexity of the patent application and not the financial condition of the applicant. Based on what happened in 1965 we did not believe that

the proposed fee schedule would have a significant impact on independent inventors and small businesses. Thus, we did not recommend a lower fee schedule for those groups.

Senator Weicker has stated in his questions to us, to be submitted for the record, that he is planning to introduce legislation to aid the small business and independent inventor. Should such legislation be enacted, we would certainly comply with its provisions.

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

NATIONAL BUREAU OF STANDARDS

STATEMENT OF ERNEST AMBLER, DIRECTOR

ACCOMPANIED BY:

RAYMOND G. KAMMER, DEPUTY DIRECTOR
THOMAS A. GARY, BUDGET OFFICER
DONALD E. DRINKWATER, SENIOR ANALYST, BUDGET FORMULATION AND FINANCIAL MANAGEMENT SYSTEMS

NATIONAL TECHNICAL INFORMATION SERVICE

STATEMENT OF JOSEPH F. CAPONIO, ACTING DIRECTOR

ACCOMPANIED BY:

WAYNE J. GALLANT, BUDGET OFFICER
JOSEPH T. ADAMS, DEPUTY ASSOCIATE DIRECTOR
ARLENE TRIPLETT, ASSISTANT SECRETARY FOR ADMINISTRATION
NANCY RICHARDS, DIRECTOR, OFFICE OF BUDGET

BUDGET REQUEST

Senator WEICKER. Our next request is that of the Scientific and Technical Research. The amount requested is $111,342,000, a decrease of $5,968,000 from the 1983 base and provides for 1,618 permanent positions. Beginning in 1983, funding for the Federal ADP standards program will be requested as part of the budget of the General Services Administration, the programs for recycled oil and materials will be eliminated, and direct funding will be reduced for metals processing and automated manufacturing. NTIS plans to be self-sustaining by 1985 and legislation is being proposed to give NTIS authority to operate in a more businesslike fashion by using a public enterprise revolving fund.

PREPARED STATEMENT

Appearing on behalf of this request is Dr. Ernest Ambler. Dr. Ambler, why don't you introduce your associates. Also, your statement will be placed in its entirety in the record at this point. We would appreciate it if you would summarize it.

[The statement follows:]

STATEMENT OF ERNEST AMBLER

I appreciate the opportunity to appear before you today to request appropriations for fiscal year 1983 on behalf of the scientific and technical research and services appropriation for the Department of Commerce. The total amount requested for this appropriation is $106,342,000 of which $104,362,000 is for the National Bureau of Standards, and $1,980,000 is for the National Technical Information Service. In addition, $5 million is

requested for working capital for a revolving fund for NTIS. The approved organizational change which would consolidate the efforts of NTIS within NBS is awaiting final implementation by the Department of Commerce. Dr. Joseph Caponio, Acting Director of the National Technical Information Service, is here with me today and will present separate testimony for NTIS. Funds for the Office of Productivity, Technology, and Innovation formerly included in this appropriation are now included in the request for salaries and expenses, Economics and Statistical Analysis of the Department of Commerce.

I would now like to address the NBS programs and budget. Two of the Department of Commerce's major goals are programmatically very significant for NBS. These goals are: to stimulate economic recovery and growth; and to increase America's competitiveness in the world economy. NBS contributes to these goals through providing services and information to industry and commerce. NBS is now pursuing several programs that are designed to facilitate the prompt introduction and exploitation of new technologies by supplying required measurements, standards, or data. These programs are in semiconductor electronics, materials science, automated manufacturing, and chemical engineering.

The semiconductor electronics work focuses on very large scale integrated circuits (VLSI), specifically to improve the quality and reduce the costs of testing such circuits. NBS' measurement services are being very well received, and professional and trade associations are adopting standards based on NBS' work.

The goal of our materials research program is to facilitate more effective use by industry of a wide variety of materials. In fiscal year 1982 we are expanding basic work underlying rapid solidification and alloy coatings. These new processing technologies show promise of leading to new materials with properties superior to any that now exist.

As you know, we are assembling a small, experimental automated manufacturing facility. This facility will be used to address the complex problems of measurements of both the machine and work piece, and of developing standards needed for the interconnection of design, manufacturing, and measurement systems.

Our chemical engineering effort provides essential thermophysical data and information on chemical engineering unit processes. For example, NBS has recently developed a computer code for predicting certain properties of hydrocarbon mixtures over a wide range of industrial conditions. This code has been made available and is being widely used by industry for design of chemical processes and processing equipment.

We are also continuing to pursue vigorously our more traditional research and development to support measurement services, critical data evaluation, and standard reference materials for a broad range of technologies.

The proposed NBS budget for fiscal year 1983 includes program decreases totaling $8,326,000 and 51 positions, and a net decrease in adjustments to a base of $7,590,000. The total reduction is $15,916,000.

The NBS budget includes two requests for transfers in fiscal year 1983. The first proposal is for the transfer of the Government-wide ADP standards program from NBS to the General Services Administration. Legislation is being proposed for this purpose.

The second proposal is to transfer funds for fire research from the Federal Emergency Management Agency (FEMA) to NBS. In the past, these funds were requested by FEMA to be passed through to NBS.

The budget also includes a decrease of $5,600,000 in adjustments to base for computer acquisition. The level approved in fiscal year 1982 for this purpose was $9,300,000. We are confident that a combination of purchase and lease will allow us to move ahead with the acquisition of the computer capability requested in the fiscal year 1982 budget.

We are requesting program decreases in several areas consistent with the President's desire to reduce Federal spending. The major factor considered in making these decisions was to assign highest priorities to those programs mandated by the NBS Organic Act. A secondary factor was the feasibility of accomplishing program goals by alternative sources of funding.

The first reduction of $3 million is in materials science; $2,055,000 in the materials science line item, and $945,000 in the transfer to working capital fund line item. These

funds are being used in fiscal year 1982 to establish a metals processing research facility at NBS. With the facility operational in fiscal year 1983, NBS will obtain increased support from industry, universities, and other Government agencies to continue work to provide information and data needed to facilitate the development of these new materials.

The second of these reductions, $226,000 and four positions, will terminate the environmental measurements program. These funds were used to develop measurement capabilities in anticipation of the needs of other Federal agencies. NBS will continue providing technical assistance to other agencies in the area of environmental measurements only on a reimbursable basis.

The third planned decrease if $3,100,000 and 42 positions and will terminate the recycled materials program. This program has been concerned with the identification and investigation of technical problems encountered in the recovery and reuse of waste materials. The major objectives of this program have been achieved to the point where it is now appropriate for the private sector to continue further efforts to satisfy their specific requirements.

The fourth reduction is for $1 million and five positions. It is part of the support for the establishment of the automated manufacturing research facility at NBS. $800,000 is in the automated manufacturing research facility line item and $200,000 is in the transfer to working capital fund line item. This program will continue to meet its objectives with NBS resources complemented by increased support from the private sector and other Federal agencies.

The fifth reduction of $1 million is in the competence program. This is the elimination of the $1 million expansion approved in fiscal year 1982. The level of the competence program in fiscal year 1983 is shown at about $7 million. We were able to effectively use the fiscal year 1982 funds to equip several projects that will be continued with the funds remaining in this line item.

Mr. Chairman, this concludes my statement. I would be happy to respond to any questions you may have.

INTRODUCTION OF ASSOCIATES

Dr. AMBLER. On my left is Mr. Thomas Gary, the NBS Budget Officer. On my right is Dr. Joseph Caponio, Acting Director of the National Technical Information Service, and on his right is Mr. Wayne Gallant, the NTIS Budget Officer.

Thank you, Mr. Chairman. Of the numbers that you mentioned, sir, there is $106,342,000, of which $104,362,000 is for the National Bureau of Standards and $1,980,000 is for the National Technical Information Service. In addition, $5 million is requested for working capital for a revolving fund for NTIS.

Funds for the Office of Productivity, Technology and Innovation formerly included in this appropriation are now included in the request for salaries and expenses, economic and statistical analysis of the Department of Commerce.

I would like to address a few of the highlights of the NBS programs and budget. Two of the Department of Commerce's major goals are programmatically very significant for NBS. These goals are to stimulate economic recovery and growth, and to increase America's competitiveness in the world economy.

The National Bureau of Standards contributes to these goals through providing services and information to industry and commerce. NBS is now pursuing several programs that are designed to facilitate the prompt introduction and exploitation of new technologies by supplying required measurements, standards, or data. These programs are in semi-

conductor electronics, materials science, automated manufacturing, and chemical engineering.

The semiconductor electronics work focuses on very large scale integrated circuits—VLSI—specifically to improve the quality and reduce the costs of testing such circuits. NBS' measurement services are being very well received, and professional and trade associations are adopting standards based on NBS' work.

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We are also continuing to pursue vigorously our more traditional research and development to support measurement services, critical data evaluation, and standard reference materials for a broad range of technologies.

The proposed NBS budget for fiscal year 1983 includes program decreases totaling $8,326,000 and 51 positions, and a net decrease in adjustments to base of $7,590,000. The total reduction is $15,916,000.

The NBS budget includes two requests for transfers in fiscal year 1983, one of which you mentioned, Mr. Chairman, the transfer of the Government-wide ADP standards program from NBS to the General Services Administration. Legislation is being proposed for this purpose.

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We are requesting program decreases in several areas consistent with the President's desire to reduce Federal spending. The major factor considered in making these decisions was to assign highest priorities to those programs mandated by the NBS Organic Act. A secondary factor was the feasibility of accomplishing program goals by trying to secure alternative sources of funding.

The first reduction of $3 million is in materials science; $2,055,000 in the materials science line item and $945,000 in the transfer to working capital fund line item. These funds are being used in fiscal year 1982 to establish a metals processing research facility at NBS. With the facility operational in fiscal year 1983, NBS will obtain increased support from industry, universities, and other Government agencies to continue work to provide information and data needed to facilitate the development of these new materials.

The second of these reductions, $226,000 and 4 positions, will terminate the environmental measurements program. These funds were used to develop measurement capabilities in anticipation of the needs of other Federal agencies. NBS will continue providing technical assistance to other agencies in the area of environmental measurements only on a reimbursable basis.

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That concludes my statement, Mr. Chairman.

Senator WEICKER. Dr. Caponio?

Dr. CAPONIO. Yes, Mr. Chairman.

Thank you for the opportunity to present a very brief statement.

As you know, Mr. Chairman, NTIS makes Federal technological, scientific, economic, and engineering information accessible to business, industry, Government, and other interested individuals and organizations.

NTIS activities are managed through three programs: the information clearinghouse program, which is fully supported by user charges; the patent licensing program; and the technology transfer program.

NTIS requests appropriations in the amount of $1,980,000 and two full-time permanent positions in fiscal year 1983, a decrease of $2,642,000 from the fiscal year 1983 base.

I would like to very briefly summarize the composition of the $1,980,000 request.

The patent licensing program encourages licensing, for royalties, of U.S. government-owned inventions. We are requesting $100,000 for fiscal year 1983 to pay maintenance fees on foreign patents owned by the United States and licensed to industry. Remaining program costs, $400,000, will be recovered through reimbursements from the Department's Office of Productivity, Technology, and Innovation, which has overall responsibility for coordinating Federal patent policy.

The technology transfer program seeks to help stimulate productivity in the United States. For fiscal year 1983 we are requesting $252,000 for the foreign technology acquisition subprogram. This subprogram helps to increase the U.S. industrial sector utilization of selected foreign technical information.

The remaining $1,628,000 requested is for the final year of a 2-year funding plan for a modernized computer system for NTIS.

PREPARED STATEMENT

In addition to these program changes, we are requesting a one-time appropriation of $5 million to provide a corpus for a revolving fund in the Treasury for use, by the Secretary of Commerce, to carry out the activities of NTIS. The revolving fund will permit NTIS to operate more as a business.

That concludes my statement, Mr. Chairman.

[The statement follows:]

Statement of Joseph F. Caponio

Thank you for this opportunity to discuss the programs of the National Technical Information Service. The Act of September 9, 1950 (15 U.S.C. 1151-1157) directs the Secretary of Commerce to establish and maintain within the Department of Commerce a clearinghouse for the collection and dissemination of scientific, technical and engineering information. NTIS was established as a primary operating unit of the Department of Commerce to serve as that clearinghouse. NTIS makes Federal technological, scientific, economic and engineering information accessible to business, industry, Government, and other interested individuals and organizations. Use of the technological information that NTIS disseminates serves to: improve the economic health and growth of U.S. firms, help increase productivity and innovation in the U.S., contribute to the improvement of the competitive position of U.S. industry in the world marketplace, and promote the utilization of foreign research and development within the U.S. industrial sectors.

In the conduct of its program, NTIS provides and promotes a full array of products and services designed to permit wider utilization of technology and serves as the primary source for the public sale of Government - sponsored research and engineering reports, research in progress reports, machine-processed data files, and computer programs. NTIS activities are managed through three programs: The Information Clearinghouse Program (which is fully supported by user charges), the Patent Licensing Program, and the Technology Transfer Program.

NTIS requests appropriations in the amount of $1,980,000 and 2 full time permanent positions in fiscal year 1983, a decrease of $2,642,000 from the fiscal year 1983 base. I would like to discuss the composition of the $1,980,000 requested for fiscal year 1983 in the context of a brief description of the three programs I just mentioned.

The Information Clearinghouse Program fulfills NTIS' role as the central source for the public sale of research, development, and engineering reports prepared or sponsored by Federal, State and Local Government agencies, their contractors and grantees, or by special technology groups. This specialized technological information is disseminated to business, industry, Government, and the public. Products and services offered for sale through the Clearinghouse program directly support the U.S. research and development enterprise and U.S. foreign policy goals by helping the social and economic development of other nations. In fiscal year 1981, the Information Clearinghouse Program became totally self-supporting for all routine operating costs. We expect revenues from the sale of products and services to be approximately $27,000,000 for fiscal year 1983. As a self-supporting program, no appropriation is requested.

The Patent Licensing Program encourages licensing, for royalties, of U.S. Government-owned inventions. It is the Government's only centralized and comprehensive attempt at commercializing Government patents through the incentives provided by limited term exclusive licenses. The Program brings selected inventions from a number of Government agencies to the attention of U.S. industry through established industry contacts and industry promotions. A limited number of inventions, identified through consultation with industry, are filed overseas to obtain patents to protect foreign markets, and to prevent unrestricted, uncompensated use by foreign competitors. Since 1975, this program has increased access to Government invention technology, and companies are committing tens of millions of dollars in research and development and new plant investment under these licenses. We are requesting $100,000 for fiscal year 1983 to pay maintenance fees on foreign patents owned by the United States and licensed to industry. Remaining program costs ($400,000) will be recovered through reimbursements from the Department's Office of Productivity, Technology,

and Innovation, which has overall responsibility for coordinating Federal patent policy.

The Technology Transfer Program seeks to help stimulate productivity in the United States by means of two subprogram elements: The Foreign Technology Acquisition Subprogram helps to increase the U.S. industrial sector utilization of selected foreign technological information. This is accomplished by collecting, translating, and disseminating to U.S. industry scientific and technical information originating outside the United States and deemed by industry representatives to be of value. The Dissemination of Patent Information subprogram seeks to improve the access and utilization by the U.S. engineering community of technological information that exists in patents.

For fiscal year 1983 we are requesting $252,000 for the Technology Transfer Program, a reduction of $400,000 from the fiscal year 1983 base. The $252,000 will be used for the Foreign Technology Acquisition Subprogram. Reductions in program costs, coupled with offsetting receipts, will permit a reduction of $250,000 from the fiscal year 1983 base. No money is requested for the Dissemination of Patent Information Subprogram, since it was only funded for one year start-up costs of $150,000 in fiscal year 1982. NTIS will disseminate patent information through the Information Clearinghouse Program in fiscal year 1983 and beyond on a self-supporting basis.

The remaining $1,628,000 requested for fiscal year 1983 is for the final year of a two-year funding plan for a modernized computer system for NTIS. The new computer system will improve the productivity of NTIS operations by replacing two unreliable and outmoded IBM 360/65's with reliable current generation equipment and supporting software. We are replacing existing ADP applications with modern data base concepts and input/output devices. The old computers and their existing programmed

applications are unable to meet the basic NTIS operating needs, let alone any additional workload requirements. The $1,628,000 requested for fiscal year 1983 will complete the modernization started in fiscal year 1982. No additional funds will be requested beyond fiscal year 1983.

Before concluding, I would like to discuss two items of interest to the Subcommittee. First, the Secretary submitted to the Congress, on February 26, draft legislation to establish a revolving fund in the Treasury of the United States for use by the Secretary of Commerce to carry out the activities of NTIS. Establishment of a revolving fund is necessary to permit us to stop the undesirable practice of having to use customer monies held in trust when we sustain periods of low cash flow. A revolving fund will allow NTIS to operate in a more businesslike environment. The establishment of a revolving fund will allow us to modernize our financial practices, assist in matching costs with revenues, allow for more accurate representation of NTIS' overall financial status and generally improve management control over operations. Our Draft Bill will contain a one-time request for appropriation of $5,000,000 to provide working capital for the fund.

Secondly, the Smithsonian Science Information Exchange (SSIE) terminated operations on October 31, 1981. SSIE had been a central source of information of Federally supported research in progress over the last 10 years. Federal agencies provided SSIE with abstracts of ongoing research projects from which SSIE produced computer printouts in various subject areas, for sale to the public.

NTIS has assumed responsibility for maintenance and updating of this machine-readable data base that includes records describing approximately 300,000 current research projects funded by Federal agencies. Monthly updates will be provided through lease arrangements

to the major online vendor systems assuring continued public accessibility.

The Office of Science and Technology Policy is working closely with NTIS during this transition period and has convened several meetings of representatives from appropriate source agencies. This cooperative effort should ensure development of an efficient, responsive, and useful system for reporting ongoing Federally sponsored research.

This concludes my prepared statement. I will try to answer any of your questions.

COMPETENCE BUILDING

Senator WEICKER. This isn't the same $5 million we cut from the general administration, is it? [Laughter.] All of a sudden it pops up in the revolving fund. [Laughter.]

I am sorry. I never used to be that cynical before I came to this town. [Laughter.]

Dr. CAPONIO. Mr. Chairman, that concludes my remarks. I would be happy to answer any questions you have.

Senator WEICKER. Last year you requested about $8.5 million for competence building, stating that the continued expansion of this program was essential if the Bureau was to be effective in its role as the Nation's central measurement laboratory. Now you are seeking a $1 million decrease in the 1983 budget.

Didn't you originally plan for expanding this program gradually for several more years until it reached a level equal to about 15 percent of Bureau funding, including reimbursements and direct funding?

Dr. AMBLER. Yes, sir; that is correct. Although we have not met our 15 percent goal, I feel that we can forego continued expansion of this program for a year or two in order to meet budgetary constraints. It is not the kind of thing I would like to abandon permanently, but I think we can do it.

The level, as I indicated in my testimony, is now $7 million. That has been a very great help to the Bureau already.

INDUSTRY PARTICIPATION

Senator WEICKER. Your fiscal year 1983 budget reflects an anticipated transfer of programs such as recycled materials and metals reprocessing to industry. Have you worked closely with industrial concerns in the past? Have they expressed an active interest in supporting these programs in the future?

Dr. AMBLER. In the recycled materials program, NBS has projects on recycled oil and other recycled materials, such as those found in municipal waste. We have worked very, very closely with industry and State and municipal governments. I feel confident that what we are suggesting will occur. In the case of recycled oil, we were called upon to do this work under the Energy Policy and Conservation Act. Subsequently, the Used Oil Recycling Act of 1980 removed the language from the Energy Policy and Conservation Act that required the labeling of recycled oil products as used oil. Thus a major motivation for this program that came from the Energy Policy and Conservation Act has disappeared due to subsequent legislation. A new American Society for Testing and Materials—ASTM—Division on Recycled Petroleum Products will be able to assist industry in areas of continued interest.

Senator WEICKER. Your budget reflects a significant reliance on anticipated user charges and program transfers to other agencies. Could you provide us with a general description of how the transfers and user fee programs will be put in place?

Dr. AMBLER. I think you are referring to the metals and automation program, sir. I am not aware of our intent to make a greater use of user fees but, rather, do more cost sharing.

For example, we have an industrial research associate program where people from industry come and work with us, at their expense. We do from time to time get loans or gifts of equipment. Also, I indicated that we rely on other agencies. I am hopeful that the Department of Defense, who is very interested in these programs, might be a source of funding. So it is that kind of approach we are proposing, Mr. Chairman.

ENVIRONMENTAL MEASUREMENTS

Senator WEICKER. One last question.

The environmental measurements program is proposed for elimination in fiscal year 1983. These funds were previously used for the development of measurement capabilities in anticipation of the needs of Federal agencies responsible for environmental research, monitoring, and regulation. Will the termination of this program have an effect on the capability of these specific agencies to fulfill their mandated duties?

Dr. AMBLER. I don't think so, sir. If I might, I would like to point out that this program a number of years ago was running at a level of approximately $2 million. The bulk of that money was transferred from our appropriation to that of EPA, under the policy that EPA was the lead agency and they should provide the funding to NBS. A comparatively small amount, $226,000, was left in the NBS appropriation. This reduction just brings down to zero the amount of direct appropriations we are requesting for environmental measurements. We will continue working with EPA on a reimbursable basis, as we always have.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. There are other questions which I will submit to you for response to the record. Thank you very much.

Dr. AMBLER. Thank you.

[The following questions were not asked at the hearing but were submitted to the Agency for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

Foreign Technology Acquisition within the National Technical Information Service

In your Technology Transfer program, in which you promote the development and utilization of U.S. technology, you anticipate a growth in sales revenues from 0% in fiscal year 1982 to 14% in 1983 to 100% in fiscal year 1985. Will user fee legislation be required to accomplish this?

No new legislation will be required to accomplish this since Title 15, U.S. Code, Chapter 23, Section 1151-1157 gives the National Technical Information Service (NTIS), through the Secretary of Commerce, authority to promote technological, scientific, economic, business, and engineering information to business, industry, state and local governments and related organizations on a cost recovery basis.

Which users will provide primary support for these activities in the future?

During the period of appropriated funding, experiment and development effort is being expended in "repackaging" information acquired so that it can be utilizated by U.S. industry. The goal is to package information products and services in such a way that they are both effective, in the information transfer sense, and self-supporting in a financial sense.

In general, growth in sales revenue will be the results of:

- Increasing the number of U.S. industry users via a promotional program.
- Increasing the number of technical information items available for sale via a vigorous acquisitions program.
- Packaging the information acquired into saleable products and services.

National Bureau of Standards

Reduction in Overall Budget

The general objectives of your activities are scientific measurement, technical support, and dissemination of information to Federal agencies, industry, and the public. Would you give us a general overview of how these primary functions will be impacted by the proposed 15 percent budget reduction from the FY 1982 level?

Minimum impact to the effectiveness of our primary program functions is anticipated from the proposed fiscal year 1983 budget reductions. The policy of this Administration is to seek greater involvement and support from the beneficiaries of federal programs in order to reduce the requirements for direct appropriations. This policy was a major factor in the identification of program reductions in the NBS budget. Also included in these reductions are: decreases

associated with non-recurring costs related to the fiscal year 1982 NBS computer acquisition increase; adjustments to base; and the transfer of the Office of Productivity, Technology and Innovation to Economic and Statistical Analysis which have no programmatic impact. In regard to the Institute for Computer Sciences and Technology (ICST), $5,100,000 is being reduced from this area due to increased use of private sector standards writing groups. In addition, ICST is proposed for transfer in the amount of $7,131,000 to the General Services Administration (GSA), since GSA has a central role in executing other Brooks Act responsibilities.

The reductions to core measurement programs at NBS total $8,326,000 or 7 percent of the NBS fiscal year 1982 level. The impact of each of these reductions are described below.

The $3,000,000 reduction in Metals Processing will be partially offset by anticipated support from industry, universities, and other Federal agencies. To the extent that outside support is available, NBS would carry out research in rapid solidification and alloy coatings.

Although NBS is proposing to terminate the Environmental Measurements program in the amount of $226,000, technical assistance in this area will continue on a reimbursable basis for other Federal agencies.

The proposed termination of the Recy d Materials program in the amount of $3,100,000 will not negatively affect the user community since the major objectives of this program have been achieved.

In the area of Automated Manufacturing Research, the proposed reduction of $800,000 will not affect the completion of the research facility. This program will continue to meet its objectives by redirecting NBS resources augmented with increased support from the private sector and other Federal agencies.

The proposed reduction of $1,000,000 which was used for nonrecurring expenses in the Competence program will have a minimum impact on the objectives of this program as long as the base level of $7,000,000 can be maintained.

NTIS is proposing reductions totaling $2,642,000 or 2 percent of the fiscal year 1982 level. This reduction represents abolishment of the Smithsonian Science Information Exchange for $2,042,000 which was previously funded under contract with NTIS and decreases totaling $600,000 to other directly appropriated funded programs. These programs will continue in fiscal year 1983 with funds provided by sales of products and services generated by these programs.

Program Priorities for NBS

Your budget statement reflects major reductions in practically all program areas. Some activities, such as environmental measurements, recycled materials, and metals processing will be either eliminated or severely cut. Would you briefly describe the considerations which have been used to determine program priorities in your FY 1983 budget?

The fiscal year 1983 NBS budget is the result of careful evaluation of the Bureau's programs and priorities. All of the NBS programs were reviewed for their responsiveness to the NBS Organic Act and to additional legislation which assigned new responsibilities to NBS. Specifically, each program was examined for its effectiveness in providing the Nation with a measurement base that (1) increases the efficiency of science, technology, and industry and (2) meets the technical needs of other Federal agencies in achieving their individual objectives. Other considerations used to determine priorities include each program's: relevance to national goals; economic and public benefits; ability to achieve objectives; ability to deliver outputs to user community; and contribution to the institutional health of NBS.

Additional factors considered in the identification of the five program reductions in fiscal year 1983 were: feasibility of accomplishing program goals with alternative sources of funding; minimum disruption to NBS core research programs through Reduction in Force; and relative priority within NBS.

Three of the fiscal year 1983 program decreases are associated with fiscal year 1982 increases; these are in the areas of: metals processing, automated manufacturing, and competence. In each of these areas, NBS has established a basic laboratory capability so that the work can be continued with either reimbursable funds or funds from ongoing projects.

The environmental measurements program and the recycled materials program are proposed for elimination since the major objectives of these programs have been achieved.

Do the proposed levels of funding represent your recommendation to OMB?

No, the NBS request to OMB was $128,508,000 and did not include decreases to the 1982 increases mentioned above. The 1983 Congressional request represents NBS' response to the Administration's budgetary constraints.

Competence Program

Concerning this $1 million reduction, the FY 1983 budget justifications state that these funds are from completed projects initiated in 1979. Your fiscal year 1982 budget justifications stated that the competence program involved long-term experimental and/or theoretical efforts. Would you please explain how you have built competence in such a short time, and what specifically was accomplished?

The turnover from completed projects as stated on page STR 75 of the justifications refers to the turnover of funds used for non-recurring expenses within these projects such as special purpose equipment and laboratory set up requirements. The projects themselves have not been completed and are not expected to be complete

until after fiscal year 1983. However, significant milestones have been achieved.

Recycled Materials

The Bureau's fiscal year 1982 budget justifications stated that test methods were to be developed to characterize recycled oil for specific end uses as fuel, and as engine, hydraulic, and industrial lubricating oils. These characterization procedures were to provide the basis of Federal Trade Commision (FTC) rulings for industry test procedures and labeling standards for recycled oil.

The Bureau's fiscal year 1983 budget calls for a reduction of $3.1 million and 42 staff in this area. According to the budget justifications, the only test procedures delivered to the FTC were those concerning the use of recycled oil as burner fuel. (p. STR-40)

1. *What happened to test procedures planned for other recycled oil uses?*

Of the $3,100,000 reduction in the Recycled Materials program, $1,200,000 is associated with recycled oil. NBS has completed an important re-refined oil basestock consistency study to provide data necessary to determine which characteristics should be monitored for consistency of basestocks used for motor oil. However, test procedures to determine the equivalency of re-refined oil with virgin oil for motor engines will not be completed. Problems associated with the use of re-refined oils as industrial and hydraulic oils will not be addressed. This program is being terminated because NBS has made substantial progress in recycled oil testing and evaluation to the point where industry should be expected to continue the work. In addition, the new ATSM Division on Recycled Petroleum Products can assist industry in this area.

2. *In this regard, did the Bureau fulfill its responsibilities under the Energy Policy and Conservation Act of 1975 which requires development of these test procedures and reporting to the FTC?*

The Bureau has largely fulfilled its responsibilities under the Energy Policy and Conservation Act. In addition, the Used Oil Recycling Act of 1980 removed language from the Energy Policy and Conservation Act requiring FTC to label all recycled oil products. Therefore, the NBS program is no longer essential. In view of the budget priorities of the current Administration, this work can be completed over a longer period of time by private industry.

3. *What will happen to the staff that worked on this?*

The staff will no longer be involved with the characterization of used oil. It is anticipated that some of this staff may leave the Federal service.

Computer Sciences and Technology

Your budget request proposed the transfer of computer sciences and technology functions to the General Services Administration which is requesting about $5 million less than the fiscal year 1982 Bureau funding for this program--a 40 percent decrease.

1. *Why does the Bureau want to transfer these functions to GSA?*

The General Services Administration is the appropriate organization to conduct the program since they have a central role in executing other Brooks Act responsibilities. The transfer would tie ICSTs standards making and technical advisory services closer to the ADP contracting functions of GSA.

2. *As you know, the Brooks Act assigns to the Secretary of Commerce responsibility for developing uniform Federal ADP standards, providing ADP scientific advisory services to Federal agencies, and performing the necessary research in computer science and technology, among other things. Can the Brooks Act requirements be fulfilled with a reduction of funds of this significance?*

The allowance of $7,100,000 for the ICST program reflects an Administration policy decision of increased reliance on voluntary standards organizations.

At this level ICST plans to maintain awareness of Federal agency needs for Federal Information Processing Standards (FIPS) and to represent those needs and interests through participation in domestic voluntary standards development activities. In addition, ICST will recommend and coordinate adoption of appropriate voluntary industry standards as FIPS. A comprehensive plan will be maintained for adoption of such standards and guidelines.

In the past ADP technical advisory services have been provided to Federal agencies on a reimbursable basis; therefore, a reduction in appropriated funds should not impact those efforts.

Research will address the most urgent Federal needs in areas which are not addressed by the voluntary standards process.

More detailed programmatic plans would best be sought from GSA.

Questions Submitted by Senator Ernest F. Hollings

Fire Science and Engineering

1. *In 1983 NBS is directly requesting the funds that were formerly provided by the U.S. Fire Administration. Why doesn't page STR-62 show that the 1983 level is a reduction of $500,000 to the base program as NBS is only asking for $3,500,000 instead of*

the full $4,000,000 supplied in 1982 by the Fire Administration?

When NBS decided to directly request the funds formerly provided by FEMA, an analysis was done to determine exactly how much was required to continue the program at or near the same level. During that analysis it was decided that the NBS work in flammability of fabrics and effectiveness of smoke detectors could be curtailed or terminated, thereby, reducing the NBS funding requirements by the stated $500,000.

2. *Am I correct that 1983 terminates the testing of fabrics for flammability? Is this because the work is completed?*

The work NBS was doing relative to fabric flammability is complete. However, NBS is still developing test methods for testing mattresses and furniture to provide measures and critical data for use in developing predictive models for fire growth. Responsibility for the Flammable Fabrics Act has been assigned to the Consumer Product Safety Commission and NBS continues to support CPSC on an as required, reimbursable basis.

3. *Where do we stand on evaluating the effectiveness of smoke detectors in alerting people in fire?*

As a part of the Fire Research grants program, Professor Nober of the University of Massachusetts has conducted a study of the effectiveness of smoke detectors in arousing human subjects from sleep. This work is completed and the final report is in preparation. Under another grant Professor Pearson of North Carolina State University studied the behavior of people aroused from sleep by an alarm. The results of these investigations support the adequacy of current standards for smoke detectors.

4. *For fiscal 1979 the Committee earmarked $500,000 to develop a new residential sprinkler standard. What was the result of that project?*

It is NBS' understanding that this money was earmarked for the U.S. Fire Administration for the residential sprinkler program. The objective of that program was to accelerate the development of cost-effective residential sprinklers. While the NBS Fire Research Program did not receive any funding from this project, the Bureau, based on its research on other sprinkler systems contributed a second generation installation standard for residential sprinklers and participated in discussion of this standard in the National Fire Protection Association (NFPA) standards committees. NBS contributed to the planning and review of the USFA demonstration programs in Louisiana and North Carolina and is conducting research on response of fast acting sprinklers for residential use.

Flammability Standards

As you know, I have been a strong supporter of appropriations for the National Bureau of Standards concerning its work on flammability test procedures and standards. In a number of areas, the Bureau has done a most commendable job in developing flammability standards that relate to real life situations and can provide practical and meaningful protection from unreasonable risks. This has been a cooperative program where the government has welcomed industry's technical input in development and evaluation of standards. It is an outstanding example of industry and government working together.

It has been brought to my attention that NBS is working on a research protocol to assess the toxicity of inhaled combustion products. You are to be commended for seeking more information on this subject, but I have been advised that industry has expressed serious concerns on some features of this research protocol. It has been my experience with test procedures and protocols that once published, over-anxious regulating bodies tend to move prematurely in adopting them as standards. Of more serious consequence, such actions can lead to a sense of false security on the part of the consuming public. In view of this well-known phenomenon, it is essential that NBS make it absolutely clear that the document on assessment of toxicity of inhaled combustion products is a much needed research procedure that should be used only for that purpose.

As a consequence, I would like for you to supply answers for the hearing record to the following questions.

1. *Will the document, when issued, clearly state that it is exclusively a research procedure and that it is not intended for regulatory, code writing, or material selection purposes?*

No. The test protocol which will be described in the document to be published was developed in response to the needs expressed by many, including industry, for a method to measure the toxicity of combustion products. Although the document will state that the test method is primarily intended for research and preliminary screening purposes, it will not attempt to preclude use in evaluating the fire safety of a material in a particular use. The document will enumerate the many other factors which bear on the fire safety evaluation. We believe the test method is technically well-grounded and that the results will be useful to manufacturers of materials, designers, and public officials charged with controlling levels of fire safety. Combustion products from different materials vary in their toxic effect. Public officials are requesting information on the toxic gases produced in laboratory fire tests.

2. *Will you share with industry the background technical data to enable them to adequately evaluate the test procedure?*

Yes, we have already shared information on this subject with all interested parties and shall continue to do so. We are publishing two reports which will contain all technical information we have on this topic. We will continue to share with industry, as well as all others concerned, the background technical data and our research findings.

3. I understand that there is a provision in the protocol for testing of composite structures, and it is also my understanding that insufficient research has been carried out to substantiate the inclusion of such composite structures in the protocol. I have been advised that industry has strongly recommended that composites should be eliminated from the protocol because of this lack of supporting data. It appears to me that industry has a strong and logical case. Please advise me of your intentions concerning this issue.

The present procedure does not address the problem of testing composite structures. The test method has been designed to measure the toxic properties of the combustion products from small samples of materials. Thus composite materials of uniform structure such as filled plastics can be studied. Composites of non-uniform structure such as carpets or layered wall structures, where the response of the structure will depend on orientation and the direction of fire exposure, cannot be evaluated properly in the present test. This limitation is acknowledged and discussed in our report and in the test method.

4. I have been advised that one or more governing bodies are prematurely recognizing this test procedure as a standard. If these bodies are indeed improperly using the protocol, even before it is officially published, it is essential that NBS advise them of this misuse and request that they refrain from this practice. Is NBS prepared to address this problem in a very aggressive way? When such occurrences are brought to your attention, do you plan to properly respond with a letter or telephone call or other means to have the misuse discontinued?

Some public officials are requesting data on toxicity from materials manufacturers. One of the tests now employed is based on earlier NBS research. To our knowledge there is no misuse of the NBS information in the conduct of such tests. The use of these test results in regulatory decision-making is the principal concern of the manufacturers, not so much the conduct of the tests themselves. However, we have no authority to tell a state or local government to stop any practice even if it involves the use of test data from an NBS procedure. If we are convinced that a misunderstanding about the NBS information or procedures has occurred we shall make every effort to clarify the information in an attempt to correct the situation.

5. I recognize that there has been a limitation on use of advisory committees in government. However, because of the far reaching implications of the NBS protocol on toxicity of combustion

products, I strongly urge you to develop an informal means to provide a coordinated government-industry approach to carry out the needed revisions to the protocol and to provide an exchange of data for the needed continued research on this project. Please advise me of your plans for such a cooperative government-industry program.

We have had very close collaboration with industry on fire safety matters. Industry-sponsored research associates participated in our toxicological research program and we have collaborated with many toxicologists and their laboratories in recent years. Seven laboratories evaluated the proposed test method. The laboratories represented industry, government, and universities. We plan to continue this close working relationship.

6. *Furthermore, it is my understanding that NBS has indicated it will work with industry in developing an education program to give governing bodies a better understanding of the proper use of the protocol and to insure that the protocol is not misused. Please advise me of your plans for this program.*

We plan to conduct a workshop on the question of the testing of combustion products for toxic effects. The workshop will be primarily oriented to technical personnel interested in manufacture and use of materials. We shall present the test method and discuss the complexities in making decisions about suitability of a given application. This workshop will be scheduled as soon after publication as possible.

7. *The committee believes that it is extremely important that the program on combustion toxicity be properly funded over the next three years to provide additional technical information required to determine the relationship of this test procedure to real life situations and to assure that it will be used in the way intended. I am sure that a cooperative government-industry program to develop the necessary ideas and concepts will receive most careful and sympathetic consideration within the committee to fund such a program. Would you please advise me of your requirements for implementation of such a program?*

We plan to continue our research on combustion products, to advance further the testing technique, and, in particular, to improve the means of assessing levels of fire safety and to put the toxicity question in context. The present level of funding for this effort is substantial, running at about ten percent of the direct appropriation, and should be adequate in future years.

8. *I also would like to commend NBS on the outstanding research which the Bureau has conducted on sprinklers. Such systems appear to be a most practical and effective approach to resolve the problem of flammability and combustion toxicity. On the basis of life safety and property protection, it seems to me that sprinkler and early warning systems are far more desirable than complicated and costly regulations.*

I have been advised that NBS has completed a cost study for a hospital designed and equipped with sprinkler and early warning systems compared to a similar structure without such systems. I understand the study indicates that the cost of the sprinkler and early warning systems can be absorbed by resulting reduced costs in construction, insurance, and maintenance. I would urge the Bureau to publish and publicize this information at the earliest possible time. Furthermore, I would recommend that you work with industry in developing an educational program on the cost effectiveness and practicality of sprinkler and early warning systems for real life safety. Please advise me of your plans for publishing and publicizing this information.

Certainly sprinklers and fire detectors are important and effective agents against the effects of unwanted fire. Their use does not necessarily end concern for the proper use of materials. There are trade-offs in the cost of sprinkler systems versus the cost of constructing fire-rated doors, walls, and the like. We have a substantial effort under way on methods of making these trade-offs rationally. We have published this information and it has been incorporated in the Life Safety Code of the National Fire Protection Association. The specific study to which you are referring addresses development of the methodology for making cost-comparison and for that purpose includes only hypothetical examples. Our report is in editorial review within NBS and upon completion will be published. We shall continue to work with industry and others in promoting this approach, for we believe it is the best way to keep construction costs under control while maintaining the required level of fire safety.

Flammability Standards

The Committee appreciates the response the National Bureau of Standards made to earlier questions on the NBS research protocol to assess toxicity of inhaled combustion products. More specifically, the Committee is especially gratified that composite structures such as carpets have been explicitly eliminated from the NBS protocol.

1. *We are also pleased to be advised that NBS has stated that it was the intent of the Bureau that the NBS protocol be specifically a research procedure. In fact, it is our understanding that NBS planned to include such language in the NBS report which would delete "primarily" and "preliminary screening" from paragraph 2.2.1 of the report NBSIR 82-2532. However, the report was published before these changes could be made.*

Therefore, it would be most appropriate for the hearing record to include the NBS intended statement; namely, "The test method provides a means of assessing the acute inhalation toxicity of combustion products under specified laboratory conditions and is intended for product research purposes." (emphasis added) This applies to paragraph 2.2.1 and other references in the report concerning intended use. Would you please submit confirmation of this intended statement.

After the discussion of June 11 with Senate staff and other interested parties, NBS agreed that the statement in NBSIR 82-2532 section 2.2.1 (p5) should read:

> "The test method provides a means of assessing the acute inhalation toxicity of the combustion products of materials under specified laboratory conditions and is intended for product research purposes."

This statement is less subject to misinterpretation than the statement in the published report. Since the report had already been distributed we issued a clarification (not an erratum) of what we meant by "preliminary screening." The clarification applied to all places in the report where the reference to preliminary screening appears.

2. *In response to the earlier questions, NBS stated that the Bureau plans to "conduct a workshop on the question of testing of combusion products for toxic effects." These workshops are designed to prevent misuse and define limitations of the protocol. This is most commendable and comments on your plans from the standpoint of localities and attendees would be most welcome.*

NBS plans public workshops to discuss the current state-of-the-art of determining the toxicity of combustion products and the technical limitations of the NBS test method. Such workshops should help avoid uninformed technically unsound application of the method. The first of these will be at NBS later this summer and the others will be at strategic points across the country. We shall invite model code officials, building and fire officials, materials manufacturers, researchers, and the public.

3. *We are pleased that NBS has given top priority to publishing the report on methodology for cost comparisons relative to installed sprinklers and early warning systems. We look forward to receiving this report at an early date and would appreciate being kept advised as to when the report may be expected.*

The draft report on a methodology for cost comparisons of sprinklers vs. fire resistive construction has encountered difficulties in technical review and is being revised. We expect to complete the revisions in about two weeks and begin review again. We shall keep the committee informed.

MINORITY BUSINESS DEVELOPMENT AGENCY

STATEMENT OF VICTOR M. RIVERA, DIRECTOR

ACCOMPANIED BY:

JAMES SEXTON, ACTING ASSISTANT DIRECTOR, PLANNING, BUDGET AND EVALUATION
JOSEPH F. KORPSAK, ACTING BUDGET OFFICER, FINANCIAL MANAGEMENT DIVISION
THERON BELL, DEPUTY DIRECTOR
ARLENE TRIPLETT, ASSISTANT SECRETARY FOR ADMINISTRATION
NANCY A. RICHARDS, DIRECTOR, OFFICE OF BUDGET

BUDGET REQUEST

Senator WEICKER. Our next request is that of the Minority Business Development Agency. The amount requested is $60 million, an increase of $513,000 over the 1983 base, and provides for 261 permanent positions. A 1982 deferral of $10 million will finance a portion of the request and will allow services to be maintained at the 1982 level. A pilot cost-sharing program will begin in 1983.

Appearing on behalf of this request is Victor Rivera, Director. Mr. Rivera, I would appreciate it if you would introduce your associates. We will accept your statement in its entirety in the record. If you would please summarize it.

Mr. RIVERA. Thank you, Mr. Chairman. With me are James Sexton, Acting Director, Office of Planning, Budget and Evaluation; Deputy Director Theron Bell; Mr. Korpsak, our Budget Officer; and you know Ms. Richards from the Department of Commerce Budget Office.

Mr. Chairman, thank you for this opportunity to present the fiscal 1983 appropriation request for the Minority Business Development Agency. I would like to summarize my full statement, if I may.

Senator WEICKER. Certainly.

SUMMARY OF BUDGET REQUEST

Mr. RIVERA. The Minority Business Development Agency's requested program level is for $60 million, which is an increased program level of $513,000 in 1983 from 1982. Overall, MBDA's program funding for fiscal years 1983 and 1982 will provide for a stable level of Federal developmental assistance to minority business enterprises.

OVERALL FUNCTIONS

MBDA provides a nationwide program to affect growth, profitability, and opportunities for the Nation's minority business and entrepreneurs. Specifically, MBDA is the lead Federal agency for developing private sector market opportunities for minority firms.

MBDA MANDATES

MBDA's mandates are to:

Fund organizations to provide management and technical assistance to minority businesses. Last year our agency assisted over 19,000.

Coordinate the participation of all Federal departments and agencies in an effort to promote the success of existing minority business enterprises and to assist in the establishment of new minority business enterprises.

Work with private organizations, State and local governments, to assist minority business.

Conduct pilot or demonstration projects and disseminate information on minority business opportunities.

Encourage Federal agencies to increase procurements from minority-owned firms. Last year we had a record increase of procurements for minority businesses. The purchases exceeded $4.1 billion, an increase of $1 billion over the previous year.

Recommend legislative and executive actions which facilitate minority business growth and development.

To implement these mandates, the MBDA delivery system is divided into four major programs. These are enterprise development, policy and market development, research and information, and program management. I will now briefly describe the main features of each program.

ENTERPRISE DEVELOPMENT PROGRAM

The enterprise development program consists of our primary delivery system, the General Business Service Center. These centers will undergo more than a name change to Business Development Centers. Besides providing management and technical assistance to new and existing minority entrepreneurs through competitively selected consulting firms, BDC's will also leverage its resources to coordinate other Government and private resources, and to broker opportunities and information.

These services will be delivered in 90 standard metropolitan statistical areas—SMSA's—having the highest concentration of minority businesses. These services will be directed at: (*a*) increasing the formation of viable and competitive minority businesses, (*b*) increasing the growth of existing minority businesses, and (*c*) reducing the failure rates of minority businesses.

As a result of these services, we do expect to see an increase in the number of minority jobs created and saved.

POLICY AND MARKET DEVELOPMENT

Another program is the policy and market development. This program provides for increased public and private sector purchases from minorities and assists minority firms in identifying and profiting by expanded market opportunities. This program also includes analysis of Federal policies affecting minority business interests, expanded business information and services provided through trade associations, and mobilization of State and local government resources in support of minority business enterprise.

Also, the policy and market development program performs MBDA's coordinating function through its interagency function, which consists of some 26 departments and agencies.

RESEARCH AND INFORMATION

Another program element of our agency is the research and information program. This program establishes, collects, and maintains economic data on the characteristics of MBDA clients and the general minority business universe. It also develops special purpose data to support minority priority programs.

Research is conducted to increase awareness of trends, characteristics and problems of minority businesses, and to help us redesign MBDA programs accordingly. An information clearinghouse continues to disseminate Federal and other source information of minority businesses, as well as minority vendor lists for public procurement and private purchase opportunities.

PROGRAM MANAGEMENT

The remaining one is the program management function, which provides for planning, directing, monitoring, and evaluating the use of resources to accomplish overall MBDA program goals and objectives. It provides administrative support for day-to-day operating requirements for the agency.

PREPARED STATEMENT

Mr. Chairman, this concludes my summary statement. I will be pleased to answer any questions that you may have at this time.

[The statement follows:]

STATEMENT OF VICTOR M. RIVERA

Thank you for this opportunity to present the FY 1983 Appropriation Request for the Minority Business Development Agency (MBDA). With me are Theron Bell, Deputy Director, James Sexton, Acting Assistant Director for Planning, Budget and Evaluation and Joseph F. Korpsak, Acting Budget Officer.

MBDA's Budget Request in Summary

The Minority Business Development Agency's appropriation request for FY 1983 is for $50,000,000, a decrease of $6,641,000 from the FY 1982 appropriation level of $56,641,000. Because of an unanticipated carryover balance from FY 1981 to FY 1982, $10 million will be deferred until FY 1983 without affecting MBDA's program goals or the intent of Congress. These two actions will result in a $60,000,000 program level for FY 1983 or an increased program level of $513,000 in FY 1983 from FY 1982. Overall, MBDA's program funding for FY 1983 and FY 1982 will provide for a stable level of Federal developmental assistance to minority business enterprises.

MBDA's Overall Functions

MBDA provides a nation-wide program to affect growth, profitability, and opportunities for the Nation's minority businesses and entrepreneurs. Specifically, MBDA is the lead Federal agency for developing private sector market opportunities for minority firms. MBDA's mandates are to:

- Fund organizations to provide management and technical assistance to minority businesses;
- Coordinate the participation of all Federal departments and agencies, at the national as well as regional levels, in an effort to promote the success of existing minority business enterprises, and to assist in the establishment of new minority business enterprises;
- Work with private organizations, state and local governments, and business and trade associations to assist minority businesses;
- Conduct pilot or demonstration projects and disseminate information on minority business opportunities;
- Encourage Federal agencies to increase procurements from minority-owned firms; and
- Recommend legislative and executive actions which facilitate minority business growth and development.

MBDA's Programs and Budget Changes

To implement these mandates, the MBDA delivery system is divided into four major programs. These are: (1) Enterprise Development, (2) Policy and Market Development, (3) Research and Information, and (4) Program Management.

I will now briefly describe the main features of each program and highlight any changes proposed in FY 1983.

The Enterprise Development program consists of our primary delivery system - the General Business Center. These centers will undergo more than a name change to Business Development Centers (BDC). Besides providing management and technical assistance to new and existing minority entrepreneurs through competitively selected consulting firms, BDCs will also leverage its resources to coordinate other government and private resources - and - to broker opportunities and information. These services will be delivered in 90 Standard Metropolitan Statistical Areas (SMSAs) having the highest concentration of minority businesses. Parenthetically, I would like to add that in FY 1983 we plan to have at least 90 BDCs operating throughout the nation. These services will be directed at: (a) increasing the formation of viable and competitive minority businesses, (b) increasing the growth of existing minority businesses, and (c) reducing the failure rates of minority businesses. By the way, as a result of these services, we expect to see an increase in the number of minority jobs created and saved. The BDC concept will focus attention on private sector opportunities for minority businesses where the potential for sales is much greater than in the Federal sector. Also, a cost sharing component will be instituted and these funds will expand the level of assistance as well as provide services specific to the clients' needs and requirements. Finally, the additional $513,000 in program funds will enhance the quality of service and the number of clients served. As an example, the number of clients will increase from 8,800 to 9,300.

For the Policy and Market Development program, we are requesting $9,920,000 in FY 1983. This amount would be comparable to the FY 1982 level.

This program provides for increased public and private sector purchases from minorities and assists minority firms in identifying and profiting by expanded market opportunities. For example, we expect the purchases to increase from $8.6 billion to $9.7 billion. The program also includes analysis of Federal policies affecting minority business interests; expanded business information and services provided through trade associations; and mobilization of state and local government resources in support of minority business enterprise. Another function of this program is to propose legislative, administrative, and regulatory policies advantageous to minority businesses.

Also, the Policy and Market Development program performs MBDA's coordinating function through its Interagency Council for Minority Business Enterprise. Finally through this program, MBDA acts as an advocate and ombudsman on behalf of minority business interests for opportunities in domestic and international (export) markets as well as opportunities in management development.

The Research and Information program establishes, collects, and maintains general purpose data on the characteristics of MBDA clients and the general minority business universe, and develops special purpose data to support minority priority programs. Research is conducted to increase awareness of trends, characteristics and problems of minority businesses and to redesign MBDA programs accordingly. An Information Clearinghouse continues to disseminate Federal and other source information of minority businesses, as well as minority vendor lists for public procurement and private purchase opportunities. The number of information requests to be filled by the clearinghouse will be at least 3,000 requests.

Finally, we are requesting $14,000,000 in FY 1983 for Program Management. This would be a $891,000 decrease from the FY 1982 funds level of $14,891,000. The decrease would result in the elimination of thirty-five (35) staff positions in an effort to realign the MBDA's organizational structure and streamline the program delivery system. I should like to add, it is expected that a number of these positions will be eliminated in part through attrition. The loss in positions will not adversely affect the delivery of MBDA programs.

The Program Management function provides for planning, directing, monitoring, and evaluating the use of resources to accomplish overall MBDA program goals and objectives. It provides administrative support for all daily operating requirements, the administration of the Agency's funding instruments (grants and cooperative agreements), and management improvement mechanisms for the Agency.

Concluding Statement

Mr. Chairman, this concludes my summary statement. I will be pleased to answer questions which you or members of the Committee wish to raise at this time.

ASSISTANCE TO PROMOTE MINORITY BUSINESS DEVELOPMENT

Senator WEICKER. In the state of the Union address, the President made a brief reference to his intention to provide $500 million of assistance to promote minority business development. That seems inconsistent with Federal budget cuts in areas like direct loan programs which have been a traditional source of capital for minority businesses. Do you know how this administration plans to make those funds available?

Mr. RIVERA. Yes; our agency will receive $60 million for our program and I believe $485 million, or something in that range, to the SBA program, which includes guaranteed loans and the MESBIC program.

Senator WEICKER. The Department of Commerce has consolidated the grant process under the Secretary's office. How has that affected your delivery system for grants?

Mr. RIVERA. At first, obviously, during the transitional phase, there were some start-up problems, but they have been smoothed out. I think it is working now, better than it has in the past. It serves as an additional checks and balance function, if you will. It is working well.

Senator WEICKER. This is a budget memorandum from your own Department.

Another way to view the problem for a clear picture is there are 120 working days between April 1 and October 1, 1982, not excluding holidays and staff vacations. The agency and OFAOD would have to average between two and three approvals per day to accomplish the goal. A further downside is the OMB/DOC 30 percent spending limitation during the fourth quarter which begins July 1, 1982 and ends on September 30, 1982. At present the agency has expended only $5 million of its $45 million program allocation for fiscal year 1982 or less than $1 million per month. The math is simple. The present expenditure rate will produce expenditures of $12 to $15 million per annum at best or a COB of $25 to $30 million for fiscal year 1982. These figures will be unacceptable to the MBE community, agency, DOC, and the administration.

Would you comment?

Mr. RIVERA. We expect all moneys to be allocated this year. What happened was that last year we had a GBS program that started, that was implemented at about this time. We had to wait for the entire funding cycle to be completed.

All announcements for our 100 Business Development Centers are out in the street. We met yesterday with departmental folks. We are programing that all the moneys will be allocated in the remaining third quarter and the 30 percent for the last quarter. It is going to be tight, but we expect to do it.

Senator WEICKER. Your budget statement indicates that you assisted 8,800 firms. Is that accurate?

Mr. RIVERA. Eight thousand eight hundred business clients. We have had a total client level of over 19,000 individuals.

Senator WEICKER. How many of those firms exceeded SBA size standards?

Mr. RIVERA. I don't know offhand. I could identify it for you for the record. Probably not a very high number.

[The information follows:]

A total of 161 firms exceeded SBA size standards.

ASSISTANCE TO BUSINESSES

Senator WEICKER. Currently SBA has 10 regional offices and over 60 district offices throughout the country. SBA's decentralization obviously is very important to providing assistance to businesses. How well prepared is MBDA to provide the same level of services?

Mr. RIVERA. We have been working very closely with Mr. Sanders at SBA and Bob Wright to coordinate. We have not had the level of coordination that is most desirable. In the past it hasn't worked that way.

We are developing a Business Development Center program, which the major objective is to bring about coordination of the Federal delivery system at the local level. We expect that coordination to improve.

Senator WEICKER. Why shouldn't we fold your agency in with SBA?

Mr. RIVERA. I think our mandate, our functions are very distinct. We play a coordinating role. We leverage public and private sector resources. We are not constrained by the word small. We can assist minority businesses to become larger firms and in that regard become major contributors to our economy.

Senator WEICKER. Yet you tell me that in the breakdown of close to $500 million you are going to get about what, $60 million of it?

Mr. RIVERA. Sixty million dollars.

Senator WEICKER. The rest goes to Small Business.

Mr. RIVERA. Yes.

Senator WEICKER. I feel very strongly, make no mistake about it. I am somewhat unsure of what the administration's real commitment is here in terms of dollars and cents to the minority community. In no way do I make my suggestion either in a flippant way or in the way of lessening the importance which attaches to your activities. I am saying that at a time when the state of the resources is so slim, I see you going on very parallel courses here. I wonder if we couldn't do a better job by having it under one tent.

Mr. RIVERA. The coordination and consolidation first should begin at the delivery point. I spent 8 years at the SBA. I know their programs intimately. There is a role for both agencies.

We promote and try to leverage our resources primarily in the private sector. Government cannot do it alone. We have found, for example, that all of our studies reveal that the principal problem of minority businesses is lack of access to information, lack of access to resources, and the uncoordinated activities of the Federal or public sector on behalf of minorities. We have developed, we believe, a delivery system that deals with those three major problems.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. There are further questions I will submit to you for response to the record.

Mr. RIVERA. Thank you.

[The following questions were not asked at the hearing but were submitted to the Agency for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

MBDA Appropriation

Question. Your budget justification (page 9) mention a GSA rent increase. In the Washington, D.C. area, how much is MBDA paying for rental of private office space? For example, isn't your Washington regional office in a privately-owned building?

Answer. MBDA is paying $77,600 for rent in a privately-owned building for the Washington regional office. The space is leased through the General Service Administration.

Question. With the transfer of the Maritime Administration from the Department of Commerce to the Department of Transportation and the significant reductions in the Economic Development Administration isn't space available in the Commerce headquarters building for your Washington regional staff?

Answer. At the present time, MBDA is studying the feasibility of relocating the Washington regional office to the main Commerce building. The savings, should space become available, will be approximately $19,400.

Question. About $900,000 is being requested for research and information. Would you explain why $2 million and 23 people are needed to manage this program as stated on page 6 of your justification?

Answer. Program funds for research are $775,000 and $120,000 for information and clearinghouse as stated on page 6. The Research Division has a staff of five people including three economists, one statistician, and one secretary. This staff manages the contracted research program and prepares several research studies each year in addition to serving as economic advisors to agency management and staff. The remaining staff (18) and salary and expense funds are in the Information Systems Division. This division includes the information clearinghouse activities, which serve as the primary Agency focus for the collection and dissemination of information about minority business. The information program also include the design, development, and management of information systems to better meet the needs of all of the MBDA programs. Most of these systems are automated and require the services of skilled analysts, computer specialists, and data technicians. The budget of $2 million as indicated on page 23 of our budget request is in the salary and expense account and includes $600,000 for all ADP activities of the Agency and the remainder for salaries and operating expenses.

Minority Business Development Agency

Question. On page 2 of your justifications the statement is made that MBDA is the lead Federal agency for developing private sector market opportunities for minority firms.

Do you know how much the Small Business Administration is doing in this regard compared to what MBDA is doing?

Are you aware that the Small Business Act, as amended, requires SBA to assist small businesses, especially minority businesses, most of which are small, in obtaining private sector opportunities?

In this regard, is MBDA trying to assume some of the responsibilities of other Federal agencies?

Answer. One of the major Agency objectives for fiscal year 1982 is to develop an expanded private sector program for MBDA. The plan calls for MBDA to develop in 1982 a pilot project that will expand the linkages and resources in the private sector to assist in the formation and expansion of minority businesses. It is projected that the pilot project will be expanded in 1983. The program will be coordinated by MBDA with Federal agencies such as SBA, Department of Defense, Transportation, and private sector corporations. The Agency also plans to develop a program that will assist and encourage Federal agencies to use the minority business development incentives as provided by Public Law 95-507. The incentives program will assist Federal agencies to encourage major private sector contractors to provide business opportunities to MBE's. MBE's will be assisted by coordinating SBA and MBDA resources and to assist 8(a) graduating firms by providing business linkages in the private sector through MBDA's supported private sector program with the National Minority Supplier Development Council.

Question. Page 4 of the budget justification contains a statement about your programs ultimately reducing Federal outlays for unemployment, welfare, housing, food, et cetera. Considering that 95 percent of minority firms have only one or no employee, how much impact will your efforts really have on these areas?

Answer. It is true that 81 percent of all minority-owned firms have no paid employees and another 12 percent have only one to four employees. But even those firms with no paid employees provide a source of income and wealth accumulation to the owner(s). The referenced statement emphasizes the word "ultimately," which means these effects will take place over a long period of time. To shorten this time horizon, MBDA is placing its emphasis on the formation and development of firms which have greater potential for wealth and employment generation than what this sector has experienced in the past.

Question. On page 10 of the budget justification it states that 35 permanent positions will be eliminated without effecting the delivery of MBDA programs. Could you provide the committee with the list of positions that you plan to eliminate and the justification for their elimination?

How does this reconcile with additional programs that may be proposed for MBDA?

Answer. Because of the technical aspects of a reduction in force, a list of the positions is not available at the present time. As soon as this list becomes available, we will be glad to supply you with the information.

Question. What have been the activities of the Interagency Council this year?

On page 19 of budget justification it states that MBDA will more effectively coordinate Federal minority business procurement programs and activities. What is the 3-year plan that is mentioned?

Answer. The Interagency Council (IAC) has identified the specific action items that will be completed by each committee. The IAC has also produced a handbook on the operation of the IAC's regional structure consisting of 37 Minority Business Opportunity Committees.

The 3-year plan is the IAC operational plan. It details the principal milestones that will be taken over the next 3 years (October 1981 to August 1984).

Enterprise Development General Business Services Program

Question. Even though there were unobligated funds totaling $13.7 million in fiscal year 1981, your budget justification on page 12 indicates that you funded centers in the top 90 SMSA's. Is that figure correct? How many centers were funded?

LW note: You may recall that prior to last year there were five centers in Connecticut. With the new system instituted last year, we were told that Connecticut qualified to have only one center because MBDA has limited funds which restricted the number of SMSA's.

How many SMSA's will you fund this year?

Would you provide the committee with a list of SMSA's that you plan to fund?

Have the solicitations for grants for fiscal year 1982 gone out?

If not, when will they?

If so, please provide a list or timetable for their release? What has the responses been? How will the performance of last year's grantees be evaluated?

Answer. The number of GBS centers funded in fiscal year 1981 was 90.

In fiscal year 1982, MBDA will fund projects in at least 90 geographic areas and SMSA's. A listing of the maximum number of SMSA's to be funded in fiscal year 1982 is included.

All competitive solicitations for MBDA's general delivery system—the BDC—have been advertised for fiscal year 1982.

MBDA ranking of 100 SMSA's

	Name of city
1.	New York[1]
2.	Los Angeles[1]
3.	Chicago[1]
4.	San Francisco
5.	San Juan-Caguas[2]
6.	Houston
7.	Philadelphia
8.	Miami-Ft. Lauderdale[1]
9.	Washington, D.C.
10.	Newark-Patterson-Jersey City[3]
11.	Detroit
12.	Dallas
13.	San Antonio
14.	San Diego
15.	Baltimore
16.	Honolulu
17.	Riverside
18.	Anaheim
19.	Atlanta
20.	San Jose
21.	El Paso
22.	New Orleans
23.	St. Louis
24.	Cleveland
25.	Phoenix
26.	Memphis
27.	Denver
28.	Nassau
29.	Boston
30.	Fresno
31.	Sacramento
32.	McAllen
33.	Albuquerque
34.	Norfolk
35.	Ponce
36.	Birmingham
37.	Tampa
38.	Kansas City
39.	Corpus Christi
40.	Oxnard
41.	Milwaukee
42.	Brownsville
43.	Pittsburgh
44.	Austin
45.	Tucson
46.	Gary
47.	Seattle
48.	Cincinnati
49.	Richmond
50.	Jacksonville
51.	Bakersfield
52.	Indianapolis
53.	Greensboro
54.	Salinas
55.	Columbus, Ohio
56.	Buffalo
57.	Baton Rouge
58.	Charlotte
59.	Nashville
60.	Stockton
61.	Charleston, S.C.
62.	Raleigh
63.	Oklahoma City
64.	Mobile
65.	Shreveport
66.	Mayaguez
67.	Orlando
68.	Jackson, Miss.
69.	Louisville
70.	Columbia, S.C.
71.	Minneapolis
72.	Hartford
73.	Dayton
74.	Rochester
75.	West Palm Beach
76.	Newport News
77.	Augusta
78.	Portland, Oreg.
79.	Tulsa
80.	Las Vegas
81.	Santa Barbara
82.	Greensville
83.	Toledo
84.	Vallejo
85.	Salt Lake City
86.	Beaumont
87.	Laredo
88.	Montgomery
89.	Fayetteville, N.C.
90.	Flint
91.	New Brunswick
92.	Columbus, Ga.
93.	Little Rock
94.	Wilmington, Del.
95.	Savannah
96.	Macon
97.	Bridgeport
98.	Lubbock
99.	Killeen
100.	Trenton

[1]SMSA's with more than one BDC: New York (four), Los Angeles (two), Chicago (two).
[2]Combination of two SMSA's.
[3]Combination of three SMSA's.

American Indian program—Indian Business Development Centers (IBDC)

Name	*Start date*
Eastern Band of Cherokee Indians (IBDC), Cherokee North Carolina Reservation	April 1982.
Minnesota Chippewa Tribes (IBDC), State of Minnesota	June 1982.
Arizona Indian Business Development Center, State of Arizona	June 1982.
Navajo Small Business Development Association (IBDC), Navajo Reservations	June 1982.
United Indian Development Association (IBDC), State of California	May 1982.
Washington/Oregon Indian Business Development Center, States of Washington/Oregon	May 1982.
Alaska Indian Business Development Center, State of Alaska	June 1982.

The performance of last year's grantees is evaluated on an ongoing basis using MBDA monitoring and evaluation guidelines. In addition, MBDA's Research and Information Division produces a yearly performance report which analyzes regional performance—brought about as a result of grantee performance.

Question. Mr. Rivera, I understand that you have changed the approach in this program from merely being concerned with how many hours of assistance goes to clients for a new orientation focusing on the number of businesses started or saved and the number of jobs created and retained. I realize that this may be a little early to ask for results, but when will you have figures available on those efforts?

Answer. Figures on businesses started, saved and the number of jobs created and retained will not be available until late fiscal year 1983 because the awards for the new BDC do not begin until May 1982. It will take at least a year to be operational for reliable feedback data.

POLICY AND MARKET DEVELOPMENT

Question. What changes have you instituted in the Purchasing Council program? How many councils now receive MBDA funding?

Please provide the committee with a list of those councils.

Answer. The strengthening of the National Minority Supplier Development Council (NMSDC) has been a coordinated effort between the NMSDC, corporations, and MBDA. The changes are expected to produce additional market development assistance to minority-owned firms and to improve the coordination of activities among corporations, regional councils, and the MBDA network in assisting minority firms to receive a greater share of business opportunities with NMSDC corporate members. Examples of some of the major changes are the following: revised programs' activities to reflect more definitive and quantifiable output measures; introduced concept to provide MBE access to NMSDC/regional council corporate expertise through an organized committee forum; and require councils to: assist MBE's in participating in mainstream trade shows, and provide concentrated market development assistance to a select number of MBE's.

In addition to the NMSDC, MBDA funds 20 regional councils.

The following regional purchasing councils are funded by MBDA: Phoenix, Ariz.; Atlanta, Ga.; Carolinas Association, North and South Carolina; Cincinnati, Ohio; Bridgeport, Conn.; Pittsburgh, Pa.; Puerto Rico; Dallas, Tex.; Miami, Fla.; Gulf South, New Orleans; Indianapolis, Ind.; District of Columbia; Buffalo, N.Y.; Louisville, Ky.; Detroit, Mich.; Nashville, Tenn.; St. Louis, Mo.; Albuquerque, N. Mex.; New York, N.Y.; and Richmond, Va.

Question. What specifically are the pilot programs which you are considering as new methods to finance minority businesses?

Answer. There are no pilot programs currently being considered as new methods of financing minority businesses. However, MBDA does have a pilot program designed to accelerate minority business expansion through business acquisitions. The objective of this program is to facilitate minority ownership and control of larger business entities.

Also, the Interagency Council's Capital Development Committee has established three subcommittees which will address issues and policies which affect equity capital formation, Federal cash management administrative procedures, and Federal regulations which have a chilling effect on minority businesses' ability to attract traditional and nontraditional (that is, pension funds, church groups, fraternities) sources of funding.

We expect that out of the recommendations of this committee, several pilot programs may be proposed to address some of the financing problems of the minority business community.

Question. Does your budget include a program specifically designed to assist firms that have completed the SBA 8(a) program?

If so, what is the program? What kind of assistance will you be providing?

Answer. The Agency historically has assisted 8(a) firms. Over 60 percent of the 8(a) firms have received assistance by MBDA programs. The newly signed interagency agreement between MBDA and SBA to assist 8(a) graduating firms is designed for 8(a) firms to receive assistance through MBDA's BDC network, specialized consulting services and the National Minority Supplier Development Council. These assistance programs are included in the fiscal year 1982 budget.

Question. What is the status of your export development program? How many firms have you identified and assisted?

Are you coordinating your efforts with the International Trade Administration?

Answer. On April 1, 1981, MBDA will announce the minority export development consultant (MEDC) program in 15 cities. This program will assist MBE's to develop export marketing plans, identify marketing opportunities, and assist in the delivery of goods to foreign markets. It is further anticipated that the MEDC will avail themselves of all public and private sector resources to assist MBE's to participate in international trade. Each cooperative agreement will be $100,000. Through the MBDA minority vendor profile, we have identified, 1,500 firms that are active or interested exporters (total populations 8,200). Within the MEDC program, we anticipate assisting 300 firms to generate $15 million in new export sales.

MBDA and ITA have been working closely to establish an interagency agreement. The intent of this agreement is to provide MBE with more access to the resources of ITA. It is anticipated that at least 400 MBE's will be assisted to increase the level of exporting expertise and to expand the marketing opportunities available to the MBE's.

Research and Information

Question. On page 22 of budget justifications you indicate that in fiscal year 1981 one economic study was funded?

What was that study?

What are the studies that you are considering funding in fiscal year 1982.

Answer. The one research study funded in fiscal year 1981 was on opportunities for minority business penetration into growth industries. This was not, however, our only research project. Most of our research staff and program fund resources were devoted to development of research data bases on minority business, so that we could conduct empirically based economic research studies in the future.

Studies planned for fiscal year 1982 are directly related to MBDA's goals of increasing business formation and growth rates and decreasing failure rates. All studies will be funded through a competitive contract solicitation which was announced on March 3 and closes April 15. Studies funded by this program will help us develop a better understanding of the causes of minority business problems so that the Agency can develop analytically based policies and programs. Since data base updating is an ongoing process we will continue this project in fiscal year 1982.

Questions Submitted by Senator Dale Bumpers

Delays in 1982 Spending

Question. What types of programs and/or projects have been funded thus far. Who makes these decisions within MBDA? What role does the Grants Review Board play?

Answer. We obligated funds in all program areas (enterprise development, policy and market development, research and information, and program management). The Director or Deputy Director decides which projects are to be funded based on plans developed by each program/regional director. Agency plans are developed from goals and objectives established through the Agency's management by objectives (MBO) process. The Grants Review Board is a part of DOC's Central Grants Units that

reviews MBDA's grants. They review MBDA's grants to assure technical and financial merit, and to assure there are no outstanding audit issues.

Question. How much money has the Agency actually obligated to date?

Answer. We have obligated $5 million through February 28, 1982.

Question. What has caused the delay in getting out the funds?

Answer. We had to wait for a funding cycle to be completed for our general business service (GBS) program that was implemented last year. That funded cycle has been completed and announcements for our business development centers have been publicized.

Question. How do you plan to expend the remainder of the fiscal year 1982 allocation? For instance, does not the OMB and the Department restrict your obligations in the fourth quarter to 30 percent of the total appropriation?

Answer. The following actions are planned or anticipated to hasten the present grant application/approval process. They are: (a) applicants will be requested to submit their proposals earlier than normal to provide greater leadtime and reduce the fourth quarter workload; (b) the Agency will seek a waiver of the A-95 State clearinghouse procedure from OMB. A waiver can shorten the time necessary to select applicants and release funds by as much as 60 days; and (c) if necessary, the Agency may seek a waiver of the 30 percent, fourth quarter expenditure limitation from OMB. This would provide an additional 60 days to obligate funds in fiscal year 1982.

Question. What steps are necessary to accomplish your plan; that is, will it be necessary to sacrifice quality review to get the money out so that we are inviting waste, fraud, and abuse?

Answer. Three important steps to accomplish the Agency plan are noted above. Further, within MBDA and DOC, a new grants application and approval process was established effective October 1, 1981. The process enhances quality control at two levels. MBDA recommends grant awards based upon its program needs and an allocation plan approved by the Director. Final award authority resides with the Department's Office of Financial Assistance. The two level process works to reduce or eliminate any abuses of prior years. Furthermore, the Agency continues to work closely with the Office of the Inspector General to resolve concerns regarding possible waste and abuse.

Question. What will results in terms of providing assistance to minority business enterprise (MBE) by the Agency funding its program so late in the fiscal year? What impact will it have on next fiscal year and your fiscal year 1983 budget request?

Answer. MBDA anticipates all fiscal year 1982 funds will be obligated as planned this fiscal year. We plan to approve more grants to assist minority business enterprises this fiscal year than we did last year. The aggregate amount of assistance available will increase and these services will have wider geographic distribution. Furthermore, no negative impact is anticipated in fiscal year 1983.

Question. In view of the delays, might not the Agency have more than the $10 million already proposed for deferral available for deferral to fiscal 1983?

Answer. The Agency does not anticipate having an amount greater than the proposed $10 million deferral requested.

SUBCOMMITTEE RECESS

Senator WEICKER. The subcommittee will stand in recess until Tuesday, March 23, 9:30 a.m., when we will consider the requests of the Bureau of the Census, NTIA, and Economic and Statistical Analysis.

[Whereupon, at 10:55 a.m., Thursday, March 18, the subcommittee was recessed, to reconvene at 9:30 a.m., Tuesday, March 23.]

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

TUESDAY, MARCH 23, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10:10 a.m., in room S–146, the Capitol, Hon. Lowell Weicker (chairman) presiding.

Present: Senator Weicker.

DEPARTMENT OF COMMERCE

ECONOMIC AND STATISTICAL ANALYSIS

STATEMENT OF ROBERT G. DEDERICK, ASSISTANT SECRETARY FOR ECONOMIC AFFAIRS

ACCOMPANIED BY:
NANCY A. RICHARDS, DIRECTOR, OFFICE OF BUDGET
JOHN O'BRIEN, BUDGET OFFICER
EGILS MILBERGS, DIRECTOR, OFFICE OF PRODUCTIVITY, TECHNOLOGY, AND INNOVATION
THOMAS COX, ADMINISTRATIVE OFFICER
KENNETH BROWN, DEPUTY DIRECTOR, BUREAU OF INDUSTRIAL ECONOMICS
ALLAN YOUNG, DEPUTY DIRECTOR, BUREAU OF ECONOMIC ANALYSIS

PREPARED STATEMENT

Senator WEICKER. Our next request is that of the economic and statistical analysis. The amount requested is $32,652,000, an increase of $700,000 over the 1983 base and provides for 708 permanent positions. The Office of Productivity, Technology, and Innovation has been transferred to this appropriation and will assume responsibility for coordinating Federal patent policy and monitoring voluntary conversion to the metric system by the domestic business community.

Appearing on behalf of this request is Robert Dederick, Assistant Secretary for Economic Affairs. If you will introduce those on your staff that are accompanying you, we will be pleased to take your statement in its entirety in the record and listen to a summary of it.

[The statement follows:]

STATEMENT OF ROBERT G. DEDERICK

I am pleased to appear before you today to present the FY 1983 budget request for the Economic and Statistical Analysis account. I am accompanied by several members of my staff who can provide additional details for any questions you might have.

The total amount requested for FY 1983 is $32,652,000 and 708 permanent positions. This is an increase of about $7 million over the current FY 1982 budget. Almost $6.5 million of this increase covers transfers and inflationary adjustments. The remaining $700,000 covers two new projects -- coordination of Federal patent policy, and metric system voluntary conversion.

This budget reflects three significant developments which I would like to highlight for you.

The first is a major reorganization that resulted in restructuring the former Office of Economic Affairs and in establishing six new offices.

Shortly after Secretary Baldrige was appointed, he decided to integrate the data and analysis programs of the Bureau of Economic Analysis and the Bureau of Industrial Economics with the Department's policy development activities. His intent was to facilitate the use of economic data for policy development, and to ensure that economic analyses were relevant to current policy issues. This resulted in abolishing the position of Assistant Secretary for Policy, establishing the position of Assistant Secretary for Economic Affairs, which I now hold, and transferring most of the functions of the Assistant Secretary for Policy to me.

The four new offices that were established as a result of these changes are:

- o The Office of Economic Policy is the principal economic policy support arm for the Secretary and me.
- o The Office of Business Conditions, which is the successor to the former Office of Economic Affairs, is responsible for the analysis and interpretation of current economic developments, and for our economic forecasting activities.
- o The Office of Business Analysis is responsible for management of a Department-wide competitive assessment program.
- o The Office of Strategic Resources is responsible for coordination of Commerce's program and policy development activities related to critical minerals and materials.

The new structure also includes an Office of Auto Industry Affairs that is responsible for managing the Administration's auto program. Its establishment as part of the ESA account reflects the President's decision to transfer responsibility for the auto program to Commerce from the Department of Transportation.

The final new element in the ESA account is the Office of Productivity, Technology, and Innovation. This Office is responsible for facilitating private sector efforts to improve productivity and for carrying out Commerce's functions under the Stevenson-Wydler Technology Innovation Act of 1980. While using the same title, its program is quite different from that of the former Office of Productivity, Technology, and Innovation as it appeared in the Department's Scientific and Technical Research account. This difference reflects the judgment that primary responsibility for growth in productivity and innovation rests with the private sector; that the old OPTI program had given too much emphasis to hardware and Governmental intervention; and that Government's role in this area is to create an economic climate conducive to private sector initiative. In recognition of this different approach, the new OPTI program has been placed in the ESA account where it can be better coordinated with ongoing economic analysis and policy development.

The second development that I would like to highlight is our plan to use existing resources to undertake improvements in four major program areas. These improvements reflect decisions that Secretary Baldrige and I have made about priorities for our economic analysis program.

I already have referred briefly to two of these improvements:

- o One is the establishment of a Department-wide competitive assessment program to be managed by the Office of Business Analysis with studies provided by the Bureau of Industrial Economics, both part of the ESA account. This program also will involve work from other Commerce elements, principally the National Bureau of Standards, and the International Trade Administration. This program will take an in-depth look at current and prospective conditions in key industrial sectors of the U.S. economy with the intent of eliminating Federal policies which might hinder the ability of these sectors to compete in the domestic and world markets of the future.
- o A second area of improvement is in the implementation of the Stevenson-Wydler Technology Innovation Act responsibilities

through our new Office of Productivity, Technology, and Innovation. In line with this Administration's view of the appropriate Federal role in spurring technological innovation, our program will focus on developing methods to speed the transfer of Federally funded technologies to the private sector, and on facilitation of private sector cooperative efforts to commercialize new technologies.

Of the two remaining areas of improvement, one is in the Bureau of Economic Analysis, where we will be working on improvements in the plant and equipment survey. The intent is to enable the survey to more precisely measure business investment, which is an important determinant of overall economic activity and growth.

The final area of improvement will emphasize the use of greater sectoral information in our economic forecasting and policy development activities. This will involve work from virtually all elements in the ESA account, but particularly from the Office of Business Conditions, the Office of Economic Policy, the Bureau of Economic Analysis, and the Bureau of Industrial Economics.

The third major item I want to highlight is the increase of $700,000 and 19 positions for the Office of Productivity, Technology, and Innovation.

Of this increase, $400,000 and 12 positions is for work related to patent policy. The Patent and Trademark Amendments Act of 1980 gives small businesses and non-profit organizations a first right of refusal to the title for inventions they develop in the performance of Federal contracts. Our work will focus on evaluating and coordinating Federal agency implementation of this new policy, and on stimulating the private sector's use of it. Unless the incentives provided by this new policy are fully exploited by both the private sector and Federal agencies, there will be little benefit to the public at large.

Because of OPTI's involvement in technology transfer through its work on the Stevenson-Wydler Technology Innovation Act, we believe that this new work on patent policy is appropriately assigned to OPTI.

The remaining $300,000 and 7 positions requested in this increase is for administering Federal responsibilities for coordinating voluntary private sector conversion to the metric system.

The Metric Conversion Act of 1975 established the United States Metric Board to coordinate voluntary metric system conversion. After a determination that many of its functions could be performed by private industry and other non-Governmental organizations, such as the American National Metric Council, the Administration has proposed the termination of the Metric Board in 1982.

Progress on voluntary conversion is critical to the ability of U.S. business to compete in world markets where the metric system is the accepted standard. We will seek to facilitate this conversion by responding to business and public inquiries concerning conversion procedures, identifying barriers to voluntary conversion, and coordinating Federal agency policies on metrication.

Because use of the metric system is directly related to productivity growth and technological development, it is appropriate that the Government's metric responsibilities be assigned to OPTI.

Mr. Chairman, that concludes my statement. My colleagues and I will be happy to answer any questions you might have.

INTRODUCTION OF ASSOCIATES

Mr. DEDERICK. I am accompanied by Nancy Richards of the Department; John O'Brien, Egils Milbergs, Thomas Cox, Kenneth Brown, and Allan Young. I do have a summary of my overall statement, and I will try to be quick about it.

OPENING STATEMENT

The fiscal 1983 budget request for the economic and statistical analysis account is $32,652,000 and 708 permanent positions. This is an increase of about $7 million over the current fiscal 1982 budget.

Most of the increase covers transfers and inflationary increases. Seven hundred thousand dollars covers two new projects—coordination of Federal patent policy and metric system voluntary conversion.

This budget reflects three significant developments. The first is a major reorganization that consolidates all of Commerce's economic data, analysis, and policy development activities under my supervision. The new structure also includes the President's auto program that was transferred from the Department of Transportation, and, finally, includes a new Office of Productivity, Technology, and Innovation which will work on facilitating private sector initiatives to improve productivity growth and on carrying out Commerce's responsibility under the Stevenson-Wydler Technology Innovation Act.

The second major development is our plan to use existing resources to undertake work in four areas:

A competitive assessment program that will analyze the ability of U.S. industries to compete in the world and domestic markets of the future;

Implementation of the responsibilities contained in the Stevenson-Wydler Technology Innovation Act that will speed the transfer of federally funded technologies to the private sector and will facilitate private sector cooperation in commercializing new technologies;

Improvements in the plant and equipment survey to enable the survey to measure more precisely business investment; and greater emphasis on sectoral data in our economic forecasting and policy development activities.

The third major item is the increase of $700,000 and 19 positions for the Office of Productivity, Technology, and Innovation. Four hundred thousand dollars and 12 positions would be for work related to the new patent policy set forth in the Patent and Trademark Amendments Act of 1980. We will focus on evaluating and coordinating Federal agency implementation of this policy and on stimulating the private sector's use of incentives now made available.

Three hundred thousand dollars and seven positions will be for work related to voluntary private sector conversion to the metric system. The administration has proposed to eliminate the U.S. Metric Board. We will be taking up such functions as responding to inquiries about conversion procedures, identifying barriers to voluntary conversion, and coordinating Federal agency policies on metrication.

That concludes my statement, Mr. Chairman. My colleagues and I will be happy to answer any questions you might have.

DELAYS IN CENSUS DATA

Senator WEICKER. The Wall Street Journal recently reported industry concerns over delays in census data availability as contributing to business uncertainty.

Have these delays affected your ability to provide economic information and analyses based on raw data to industry?

Mr. DEDERICK. No, sir; they have not affected the economic area which I am representing today. The cutbacks have been primarily in demographic information. The economic data have been well maintained. While we have worries about the future, whether adequate funds will be available, we have not had any problems to date.

OFFICE OF PRODUCTIVITY, TECHNOLOGY, AND INNOVATION

Senator WEICKER. Fiscal year 1983 funding is requested for an Office of Productivity, Technology, and Innovation transferred from science and technical research.

How will this transfer affect the ongoing projects in OPTI?

Mr. DEDERICK. There will be a considerable change, sir. Under the previous administration, the emphasis was on a very technology-oriented and hardware-oriented program, divorced from economic policy. It was an interventionist program involving considerable expenditure of funds to help business increase its productivity.

We view the role as considerably different. We think that the basic administration program is the primary way of helping business improve its productivity. The Office's role, therefore, is correspondingly changed—it will be less interventionist. Basically, the new goal is to identify barriers to productivity improvement and to help in eliminating them. Further, the goal is to increase the information flow to the private sector on best practice productivity techniques to let business help itself. For instance, programs are now underway to help the national productivity advisory councils and Cabinet councils to define existing barriers to productivity; a productivity center is being established to give information; and we are helping the private sector in the establishment of cooperative R. & D. projects through technical aid. These are areas where we can contribute rather than through a direct interventionist approach.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. There are further questions which I will submit for response to the record. Thank you very much.

Mr. DEDERICK. Thank you very much.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

NEW PROGRAMS

You have requested $700,000 for financing of two projects in the new Office of Productivity, Technology, and Innovation: 1) coordination of Federal patent policy, and 2) metric system voluntary conversion. Existing programs are proposed for level funding.

Please describe how these particular programs were selected as new project priorities.

OMB directed the Department of Commerce to undertake these new projects.

The increase for Coordination of Federal patent policy is important because it would provide the resources to implement the Patent and Trademark Amendments Act of 1980 which provides a first right of refusal to small businesses and non-profit contractors to the title to inventions they conceive or first actually reduce to practice in the performance of work under a Government contract. This new program would permit the coordination and evaluation of Federal agency implementation of the new policy, and in particular, the private sector's acceptance and exploitation of it.

The Patent and Trademark Amendments Act of 1980 (P.L. 96-517) included provisions to give small businesses and non-profit organizations (including universities) a first right of refusal to title to inventions made with Government funding. In addition, Government agencies are encouraged to grant exclusive licenses for Government-owned inventions. Unless these inventions are commercialized (i.e., actually reach the marketplace), little or no benefit will be realized. Federal patent policy is an element of technology transfer and has a relationship to certain sections of the Stevenson-Wydler Technology Innovation Act of 1980 (P.L. 96-480). This program provides a centralized oversight and evaluation of the implementation of the new patent policy, and the response of the private sector to the new policy. As part of this effort, patent policies of other nations also will be examined. In addition, OMB Circular A-124 (effective March 1, 1982) assigns several lead agency functions to the Department concerning implementation of Federal patent policy and P.L. 96-517.

The increase for the Metric System voluntary conversion is important because it would provide the resources to administer Federal functions and responsibilities for coordinating voluntary conversion to the metric system.

The Administration has proposed the termination of the Metric Board in 1982 after a determination that many of its functions and activities could be performed by private industry or by non-Governmental organizations.

Certain functions should remain which are the responsibility of the Federal Government, and which should be continued because of the importance of voluntary conversion to the national economy. This importance is particularly evident in connection with

Commerce Department functions (e.g., U.S. international trade) since all of our major trading partners have adopted the metric system. The Common Market has even issued deadlines after which metric units must be used by member states.

At the direction of the Administration, the residual Federal functions and responsibilities for voluntary metric conversion have been assigned to the Department of Commerce. These include:

- . responding to inquiries;
- . identifying barriers to metric conversion;
- . acting as liaison to private sector organizations;
- . serving as a focus for U.S. business interests unfairly treated in foreign markets because of metric use as a non-tariff barrier; and
- . acting as an intra-Governmental coordinator.

TRANSFERRED PROGRAMS

Your budget request includes $6,462,000 for adjustments to base to provide for three transfers from the General Administration, Science and Technical Research, and the Department of Transportation.

Will these transfers require legislation?

Only the transfer from the Department of Transportation (DOT) will require legislation. The other two transfers already have been approved by both the House and Senate Subcommittees through the reprogramming process.

As part of the DOT transfer, Commerce will assume responsibility for preparing an annual report on the status of the automobile industry. Since this responsibility is presently assigned by statute (15 U.S.C. 1871) to the Department of Transportation, legislation to effect this portion of the transfer will be forthcoming.

Does the amount of money requested represent FY 1982 level funding for these programs in the original agencies?

Yes, this represents the FY 1982 level funding for the transferred programs. However, the new Office of Productivity, Technology, and Innovation is funded through both the General Administration and Science and Technical Research transfers.

EXISTING PROGRAMS

Your budget proposal states that within existing resources expanded efforts and improvements are being undertaken for several high priority activities including industry - specific competitive assessment studies and economic forecasting.

Briefly describe how you intend to increase your efforts without increased funding in these areas.

The activities you refer to specifically are:

1) improvements in the Plant and Equipment Survey;

2) conduct of a series of competitive assessment studies;

3) improvements in economic forecasting and policy support through greater use of sectoral information for economic policy development; and

4) renewed emphasis on the technology transfer provisions of the Stevenson-Wydler Technology Innovation Act.

To provide for improvements in the estimates of plant and equipment expenditures and investment plans of U.S. businesses at an annual level of $616,000, three activities will be eliminated in FY 1982 through reprogramming: (1) the preparation of measures of economic well-being, (2) the preparation of estimates of the size distribution of personal income, and (3) the preparation of estimates of the physical units of pollutants abated per unit of industry output.

Because of overall budget constraints, the work on each of the other three items will be conducted on a considerably smaller scale. Our planning is still in the early stages and we have not identified the amount of resources to be associated with these three items. The resources will be made available through a combination of management efficiencies, better integration of existing resources, and a general tightening of existing programs across-the-board.

Questions Submitted by Senator Ernest F. Hollings

CUTBACKS IN STATISTICAL AGENCIES

A study prepared for the Joint Economic Committee in November 1981 entitled "Maintaining the Quality of Economic Data" noted that current budgetary constraints are threatening the quality and timeliness of the gross national product (GNP) estimates. As an example of the cutbacks, the Census Bureau in its fiscal year 1983 budget submission is proposing a reduction in its survey trade data (CEN-14) and a potential reduction in its survey of residential alternations and repairs (CEN-9). These two programs provide data for the Bureau of Economic Analysis (BEA) to estimate quarterly GNP, and more specifically portions of the personal consumption expenditures and the gross private domestic investment components, respectively.

The service trade data will be reduced from a monthly survey to an annual survey. As BEA will not have current data for the quarterly GNP estimates it will either have to rely on another source for the data, or trend or project the data based on what has happened in the past and future expenditures. For the survey of residential alternations and repairs, the effect of the reduction is not yet known.

Several questions can be asked about the data reductions and possible affect on GNP.

-- *Have the planned cutbacks of data of the Census Bureau or other agencies providing data for GNP been coordinated with BEA to afford you the opportunity to formally provide feedback on the planned cuts?*

Within the Department, the cutbacks of data within the Census Bureau were coordinated through the Assistant Secretary for Economic Affairs. So far, the other statistical agencies have done a good job of protecting the source data for the GNP account. The approach has been to cut back or cut out programs that serve other uses. However, some of the source data used for the GNP does not originate in the statistical agencies. Often, we are not informed about reductions by these other agencies until after decisions are made. Examples of such reductions include: the conversion of the Annual Housing Survey to a biennial survey by HUD; the elimination of the Survey of Commission Charge on Brokerage Transactions by SEC; and the elimination of information on consumption and purchases of fuels by manufacturing plants by DOE. In addition, some reductions in source data have been the result of direct Congressional action concerning a particular survey--examples include the elimination of the Farm Finance Survey conducted by the Census Bureau and cutbacks in the size of the Quarterly Financial Report of the FTC.

-- *For the cutback in the Census Bureau's service trade data, what will the impact be to GNP? What percent GNP does it represent? Is there any other source for this economic activity? If there is none how will you continue to estimate it? How critical is the service trade data for GNP?*

In 1981, the components of personal consumption expenditures (PCE) that are based on the Census monthly service trade data accounted for about 16 percent of PCE and 5 percent of GNP. These components are services of physicians, dentists, lawyers, barbers and beauty 'ons, hotels and motels, laundries and cleaners, and aut' epair firms. We are not aware of alternative sources of monthly or quarterly information. Therefore, we plan to prepare the monthly and quarterly estimates by extrapolating the past annual trends in the constant-dollar series and inflating these constant-dollar estimates with an appropriate price index to obtain the current-dollar estimates. While the components constitute a sizeable portion of PCE and GNP, we do not feel that the loss of the monthly and quarterly source data will be critical because spending on these consumer services is not subject to substantial cyclical movements.

-- *Have you analyzed other planned cutbacks to determine what their impact, individually and collectively, will be on the GNP estimates?*

In general, any loss of source data or decrease in its accuracy reduces the quality of GNP. It is very difficult to qualify such effects because it is not possible to measure the increase in error that will result from an inferior source. When faced with alternative ways to cut back, we have selected those, such as the monthly service trade survey, that we judge will do the least damage. So far, in terms of their effect on GNP, the planned cutbacks of which we are aware are not substantial.

-- *If there are cutbacks in statistical programs which you deem to be vital for estimating GNP, what do you think should be done to continue these programs?*

The GNP accounts are one of the most important sets of statistics that underlie economic decisionmaking in both the public and private sectors. Adequate funding for statistical programs needed to prepare the GNP should be continued.

BUREAU OF THE CENSUS

STATEMENT OF BRUCE K. CHAPMAN, DIRECTOR

ACCOMPANIED BY:

C. LOUIS KINCANNON, DEPUTY DIRECTOR
SHIRLEY KALLEK, ASSOCIATE DIRECTOR FOR ECONOMIC FIELDS
HOWARD HAMILTON, ACTING ASSOCIATE DIRECTOR FOR INFORMATION TECHNOLOGY
JOSEPH P. BELLOMO, BUDGET OFFICER
ARLENE TRIPLETT, ASSISTANT SECRETARY FOR ADMINISTRATION
NANCY A. RICHARDS, DIRECTOR, OFFICE OF BUDGET
ROGER A. HERRIOT, CHIEF, POPULATION DIVISION

PREPARED STATEMENT

Senator WEICKER. The next request is that of the Bureau of the Census. The amount requested is $156,434,000, an increase of $2,397,000 over the 1983 base and provides for 2,465 permanent positions. Part of the financing will be derived from a deferral of 1982 appropriations. The quarterly financial report and the financial assistance award data system will be conducted by the Bureau of the Census.

Appearing on behalf of this request is Bruce K. Chapman, Director, and he will introduce his associates. We will enter your statement as part of the record and you may go ahead and summarize.

[The statement follows:]

STATEMENT OF BRUCE CHAPMAN

I am pleased to have this opportunity to appear before you and present the 1983 budget for the Bureau of the Census.

PROGRAM HIGHLIGHTS

The 1983 budget totals $155,419,000 and provides for the Bureau's two appropriations. The request for Salaries and Expenses totals $64,125,000 and supports the current statistical programs. The request for Periodic Censuses and Programs totals $91,294,000 and provides for the economic and demographic censuses, intercensal demographic estimates, geographic support functions, and the maintenance of electronic data processing facilities.

SALARIES AND EXPENSES

The request of $64,125,000 for the current statistical programs represents an increase of $6,925,000 over the 1982 continuing resolution. This increase includes adjustments of $2,537,000 for the cost of the October 1981 pay increase, $2,578,000 for other cost increases, $40,000 in decreased costs, and $1,850,000 for requested program changes. The program changes are shown under the Current Economic Statistics activity and will allow the Bureau to assume responsibility for two programs previously conducted by other agencies.

The first program change totals $1,600,000 and 47 positions and provides funding for preparation of the Quarterly Financial Report (QFR), previously prepared by the Federal Trade Commission (FTC). The Bureau will assume responsibility for this program since it provides general purpose statistics which are not specifically required by the FTC to fulfill its regulatory missions. Preparation of this report and the collection of related data will improve the comparability of data used in estimates of GNP and broaden and improve the overall economic statistics programs of the Bureau. Specifically, the QFR will benefit programs which provide estimates of business inventories, and will make it possible to develop a more integrated program of financial and production statistics.

The second new item totals $250,000 and 5 positions and provides the Bureau with funding to assume the responsibilities associated with the Federal Assistance Award Data System (FAADS) which provides information on the use of federal aid programs and notification of individual grant awards. FAADS was previously maintained by the Community Services Administration, which was terminated in FY 1982. The Federal Government provides billions of dollars

annually to state and local governments, nonprofit organizations, private hospitals and colleges, small business, and individuals. FAADS serves as the Nation's central source of information on all domestic financial assistance programs of the Federal Government.

PERIODIC CENSUSES AND PROGRAMS

I would now like to highlight our 1983 request for the Periodic Censuses and Programs appropriation.

ECONOMIC CENSUSES

A total of $21,766,000 is requested for the 1982 Economic Censuses. Operations in 1983 will include the mailout of questionnaires, clerical processing of data, and preparation of the first tabulations of the 1982 censuses. The program level supported by this request reflects a one-year delay in the Commodity Transportation Survey and the elimination of the National Travel Survey.

CENSUS OF GOVERNMENTS

The budget includes $2,115,000 for the 1982 Census of Governments. This funding provides for the check-in, edit, and correction of data, identification and follow-up for nonrespondents for the government finance survey; completion of all data processing and a final review of data and tables for the taxable property values study; and the preparation of publication tables and complete processing of survey questionnaires for the public employment survey.

CENSUS OF AGRICULTURE

A total of $20,979,000 is included for the 1982 Census of Agriculture. This request reflects a reduced program level for the census. A reduction of $10 million from the previously planned total program level is being achieved by eliminating the area sample survey, and the collection of data for outlying areas in Puerto Rico, Guam, and Virgin Islands; and the elimination of special follow-on surveys. The revised census plans were discussed with the Department of Agriculture and other major data users, and there is general agreement that these reductions will have the least effect on the basic census. Activities in 1983 include the mailout and mailback of questionnaires, computer and clerical processing of data, and preparation of the first tabulations.

INTERCENSAL DEMOGRAPHIC ESTIMATES

The request for the Intercensal Demographic Estimates program is $2,012,000 and provides for the preparation of mid-1982 population estimates and calendar year 1981 per capita income estimates for eligible governmental units.

1980 DECENNIAL CENSUS

The FY 1983 budget represents the last year of funding for the 1980 Decennial Census. The total of $36,071,000 provides for the balance of the tabulation and publication program for the complete count and sample data with population and housing characteristics for all geographic areas, and evaluation of the data quality.

DATA PROCESSING EQUIPMENT

A total of $4,849,000 is requested for data processing equipment in 1983. This amount includes $2,459,000 for the rental and maintenance of equipment and other supporting activities, and $2,390,000 for the A-109 process. The A-109 activities in FY 1983 will include the evaluation of contract submissions and the approval of up to three contracts for concept development.

REDUCTION IN FORCE AND FURLOUGH

This concludes the highlights of the 1983 budget request, but I would now like to summarize the impact of the budget on staffing at the Bureau. Budget and staffing conditions in FY 1982 have required several unpleasant decisions affecting our personnel. The reduction in force (RIF) is largely the result of planned workload reductions in the decennial program, reductions in reimbursable work for other agencies, and other restraints on FY 1982 activity levels approved by Congress.

A reduction in force (RIF) at Headquarters, as of January 15, 1982, resulted in the separation of 59 employees. Another 76 employees were downgraded or reassigned through their bumping and retreat rights. The Bureau is currently going through the procedures to conduct a second RIF which will be far more extensive than the one accomplished in January. This RIF, which was effective March 20, involved most of the Bureau's geographic areas. About 450 employees were separated and as many as 700 additional employees are affected through reassignment or downgrading.

Additionally, the Bureau instituted a furlough program, effective March 7, whereby all regular office employees will be placed in nonduty status for up to 10 days. In addition, employees have been advised that up to 12 additional days in furlough status may be necessary prior to the end of FY 1982. We are conducting the furlough procedure in order to minimize the RIFs and to protect, to the extent possible, the Bureau's staff expertise.

This concludes my prepared statement.

Thank you, Mr. Chairman.

INTRODUCTION OF ASSOCIATES

Mr. CHAPMAN. Thank you, Mr. Chairman. With me is the Deputy Director, C. Louis Kincannon; and Joseph P. Bellomo who is the Budget Officer; and Nancy A. Richards from the Department of Commerce Budget Office. I will summarize my statement, with your concurrence, sir.

OPENING STATEMENT

The budget total incorporated in the regular budget is $155,419,000 for two appropriations. Salaries and expenses totals $64,125,000. This supports our current statistical programs. The periodic censuses and programs totals $91,294,000 and provides for economic and demographic censuses, the intercensal demographic estimates, geographic support functions, and the maintenance of our electronic data processing facilities.

SALARIES AND EXPENSES

The changes in programs, which are shown under the current economic statistics activities, will allow the Bureau to assume responsibilities for two different programs which were conducted previously by other agencies. The first one totals $1.6 million and 47 positions for the funding for preparation of the quarterly financial report—QFR—which was formerly done by the Federal Trade Commission. The preparation of the report and collection of the data will improve the comparability data used in the estimates for GNP and broaden and improve the overall economic statistics programs of the Bureau.

The second item which represents a change in a new program is $250,000 and five positions to take over the Federal assistance award data systems, the FAADS, which provides information on the use of Federal aid programs and notification of individual grant awards.

FAADS was previously maintained by the Community Services Administration, which, as you know, was terminated in fiscal year 1982. FAADS is the Nation's central source of information on all domestic financial assistance programs of the Federal Government.

I would like to say a word, if I may, about the economic censuses. A total of $21,766,000 is requested for the 1982 economic censuses. The

operations in 1983 will include the mailout of questionnaires, the clerical processing of data, and preparation of the first tabulations on the 1982 censuses.

The program level supported by this request reflects a 1-year delay in the commodity transportation survey and the elimination of the national travel survey.

CENSUS OF AGRICULTURE

The Census of Agriculture is our major periodic activity this year, and we requested a total of $20,979,000 in this budget. This reflects a reduced program level for the agricultural census. A reduction of $10 million is being achieved by eliminating the area sample survey and the collection of data for outlying areas in Puerto Rico, Guam, and the Virgin Islands; and the elimination of special follow-on surveys.

These plans were discussed with the Department of Agriculture and other major data users, and there is an agreement that these reductions will have the least effect on the basic census.

THE 1980 DECENNIAL CENSUS

Let me say something about the 1980 decennial census and its results. The 1983 budget represents the last year of funding for the 1980 decennial census. A total of $36,071,000 provides for the balance of the tabulation and publication program for the complete count and sample data with population and housing characteristics for all geographic areas, and evaluation of the data quality.

REDUCTION IN FORCE AND FURLOUGH

This concludes the highlights of this 1983 budget request, but I would like to summarize the impact of the budget on staffing at the Bureau. Budget and staffing conditions in fiscal year 1982 have required several unpleasant decisions affecting our personnel. The reduction in force is largely the result of planned workload reductions in the decennial program, reductions in reimbursable work from other agencies as well as other restraints in fiscal year 1982 activity levels approved by Congress.

A reduction in force at headquarters, as of January 15, 1982, resulted in the separation of 59 employees. Another 76 employees were downgraded or reassigned through their bumping and retreat rights. The Bureau is currently completing a second RIF which was much more extensive than the first one accomplished in January. This RIF, which was effective March 20, involved most of the Bureau's geographic areas. About 375 employees have been separated and as many as 400 additional employees are affected through reassignment or downgrading.

Additionally, the Bureau instituted a furlough program, effective March 7, whereby all regular office employees have been placed in nonduty status for up to 10 days. We are conducting this furlough in order to minimize the RIF's and, to protect to the extent possible, the Bureau staff expertise. Thank you, Mr. Chairman.

CENSUS OF AGRICULTURE

Senator WEICKER. Why have you shortchanged the Census of Agriculture?

Mr. CHAPMAN. This is one of the most difficult, painful choices we have had to make in relation to the 1982 census. I am very aware of the value of the outlying areas and I am also very aware that there are geopolitical reasons why we should not be minimizing the importance of Puerto Rico and the other outlying areas. However, we do have to economize, as do other agencies, and this was a place to save $2.1 million in the agriculture census without affecting the validity of the national figures.

Senator WEICKER. Is not the preparation of such censuses a mandated responsibility of the Bureau?

Mr. CHAPMAN. Yes, sir, we simply do not feel we have the funds.

Senator WEICKER. How much would it cost to restore the agriculture census for outlying areas?

Mr. CHAPMAN. $2.1 million.

Senator WEICKER. And when would you have to have the funding in order to conduct it?

Mr. CHAPMAN. In the fiscal year 1983 budget.

REDUCTION IN FORCE

Senator WEICKER. You previously offered the wind down of the decennial census and limited reimbursables as two key factors in RIF plans. A recent study by Census employees indicates that 60 percent of the positions abolished at headquarters do not relate to the decennial, and only a 4.3-percent of reductions relate to reimbursable programs. Can you explain this apparent discrepancy?

Mr. CHAPMAN. We don't agree with their figures, Mr. Chairman. In fact, looking at them, we feel they have left out large numbers of people in program areas, computer areas, and the administrative areas, and the actual figures attributable to the decennial which, in turn, results in percentage reductions of 70 percent.

Senator WEICKER. Do you anticipate additional RIF's within the fiscal year 1983 budget?

Mr. CHAPMAN. No, sir, we don't.

Senator WEICKER. Senator Hollings received a letter from Senator Sarbanes. I will make Senator Sarbanes' letter a part of the record. I would appreciate it if you would respond to Senator Sarbanes' letter to Senator Hollings.

Mr. CHAPMAN. I will be happy to do so, sir.

[The letter follows:]

Response to Federal Government Service Task Force Report

Response to Section II. Major Findings of the March 12 memorandum from Representatives Hoyer and Barnes, and Senator Sarbanes to Chairman Neal Smith of the State, Justice, Commerce Subcommittee of the House Appropriations Committee.

II. Major Findings:

a) The bulk of the reduction-in-force can not be attributed to post-decennial wind-down. 60% of the positions abolished at headquarters do not relate to the decennial.

Response: It is not correct to assume, as was done in the "Analysis of Census RIFs: Positions Abolished at Headquarters," that those positions designated as "Administrative" and "Census Users" are not related to the decennial census mission. The missions of the divisions so identified are to support all Bureau programs, including the decennial census program, and their staffs were increased in the past few years to support increased decennial activities and must now be reduced as work on the decennial census program declines.

A more correct analysis of the data is as follows:* Although the total of positions listed as "Census Users" and "Administrative" should not be considered decennial related, the bulk of these positions were added to serve the decennial program, so one should consider approximately 75 percent of the 131 positions, or 98 positions, to be decennial related. By adding those 98 positions to the ones listed in the table as "Decennial Census Wind-Down," (152 positions) for a total of 250 positions, one sees that the percentage of decennial-connected positions (to total positions abolished) is 67 percent. In short, the percent of nondecennial-related positions is 33 percent, not 60 percent.

b) Only 4.3% of the headquarter reductions relate to the reimbursable programs; insofar as the headquarters RIF is concerned, these reductions were not driven by cutbacks of work coming from other agencies.

Response: It is unclear where the figure 4.3 percent comes from, as the analysis attached to the memorandum indicates 6.2 percent attributed to reimbursable work.

c) Many of the jobs abolished that do relate to the decennial census would contribute to the production of decennial data that has not yet been issued, e.g., detailed data for population characteristics has not yet been issued. The Bureau is already 1 full year behind schedule in completing this work (which relates to reports that the Bureau has not indicated it wishes to eliminate).

Response: The Bureau has not abolished any positions required for the processing and tabulation of decennial census data. Our efforts to complete the decennial program are not impaired by the RIF; indeed, the Bureau has assigned a very high priority to the utilization of personnel resources to assure the scheduled publication of decennial data.

*The Federal Government Service Task Force data contain some errors in the "Positions Abolished" and "Total Base" numbers but the analysis would still hold were correct figures used.

d) Parts of the Bureau that provide data to the public normally encounter peak workloads during the present phase of the decennial cycle--as reports are readied for release. The same is true for parts of the Bureau that provide direct services to those who use Bureau data, e.g., the Center for Demographic Studies. Nevertheless, publication services staff will be cut by nearly 26%, and data user service will be cut by 15%. Such cuts could seriously impair transmission of data to those who urgently require it, e.g., business.

Response: If it is determined that the Bureau is inadequately staffed to assure its ability to provide data to the public, we will promptly provide additional resources to the best of our ability.

e) Nearly 20% of the positions abolished come from other, non-decennial programs; predominantly from the agricultural and Economic Census areas that normally increase during the present period of the periodic cycle.

Response: The headquarters positions on which the analysis focuses would not "normally increase during the present period of the periodic cycle." The major staff increases for the Census of Agriculture and the Economic Census will occur in field staffing, not headquarters.

f) Security of ADP and Privacy is also being reduced; leaving the Bureau without a security staff in this area. This is a particularly awkward decision on the Bureau's part, following a recent Supreme Court decision upholding the Bureau's decision to deny access to census house lists to Essex County, N. J. on the grounds that it was "raw data" and protected by Title 13. Computer files are crammed with such sensitive information, and Bureau plans to shift responsibility for this mission to ADP Chief, on top of all of his other responsibilities, runs contrary to government-wide ADP security practice developed by OMB.

Response: Only five of the 13 positions (38 percent) assigned to the Security Office were identified as part of the reductions to be made in administrative support costs. The work associated with two of the abolished positions is now being performed by the Department of Defense. Thus, the effective cut in staff resources is just three positions. We believe that an adequate level of security can be maintained despite these reductions. There will certainly be no abrogation of the protection of data as provided by Title 13.

March 18, 1982

Honorable Ernest F. Hollings
Ranking Minority Member
Subcommittee on State, Justice, Commerce,
The Judiciary, and Related Agencies
Senate Appropriations Committee
Room S146A-The Capitol
Washington, DC 20510

Dear Senator Hollings:

I am enclosing a copy of a report prepared by the Federal Government Service Task Force, of which I am a member, regarding the impact of a planned Reduction in Force at the Census Bureau. In my view, the report clearly shows that the Census Bureau RIFs, if conducted as planned, will have an unanticipated and highly undesirable impact on the ability of the Bureau to process, evaluate, and disseminate the information collected during the 1980 decennial census. As you know, accurate census data is vital to, and is being eagerly awaited by, planners in business, government and academia.

I would urge you to review the findings and recommendations of this analysis. If you have any questions please do not hesitate to contact me or John Porter of my staff at 224-5053.

With best regards,

Sincerely,

Paul S. Sarbanes

Paul S. Sarbanes
United States Senator

FEDERAL GOVERNMENT SERVICE TASK FORCE

97th Congress

March 12, 1982

TO: Chairman Neal Smith,
State, Justice, Commerce Appropriations
Subcommittee.
Att: Terry Bevils

FROM: Rep. Steny H. Hoyer
Rep. Michael D. Barnes
Sen. Paul S. Sarbanes

RE: Consequences of March 19th Census Bureau Reduction-In-Force.

I. Introduction: When he appeared before your subcommittee, Census Bureau Director Bruce Chapman justified reduction-in-force plans effective March 19, 1982, as follows:

a) Absence of "normal" post-decennial census project load due to budget cuts (limiting work done by the Bureau for other agencies that is reimburseable).

b) The fact that the decennial census is now in a wind-down phase in FY 82.

c) Discontinuation of certain projects not related to the decennial census.

Based upon data supplied to the Federal Government Service Task Force by Census employee representatives, staff prepared an analysis which we believe raises serious questions about the advisability of going forward with plans to abolish 372 positions at Census headquarters. The analysis is limited to headquarter staff only; it compares abolished positions to the mission of each census division. A thorough analysis of mission at the branch level would have yielded more conclusive results, but was precluded by the shortness of time available in which to complete the study.

II. Major Findings:

a) The bulk of the reduction-in-force can not be attributed to post-decennial wind-down. 60% of the positions abolished at headquarters do not relate to the decennial.

b) Only 4.3% of the headquarter reductions relate to reimburseable programs; insofar as the headquarters RIF is concerned, these reductions were not driven by cutbacks of work coming from other agencies.

c) Many of the jobs abolished that do relate to the decennial census would contribute to production of decennial data that has not yet been issued, e.g. detailed data for population characteristics has not yet been issued. The Bureau is already 1 full year behind schedule in completing this work (which relates to reports that the Bureau has not indicated it wishes to eliminate).

d) Parts of the Bureau that provide data to the public normally encounter peak workloads during the present phase of the decennial cycle--as reports are readied for release. The same is true for parts of the Bureau that provide direct services to those who use Bureau data, e.g. the Center for Demographic studies. Nevertheless publication services staff will be cut by nearly 26%, and data user services will be cut by 15%. Such cuts could seriously impair transmission of data to those who urgently require it, e.g. business.

e) Nearly 20% of the positions abolished come from other, non-decennial programs; predominantly from the agricultural and Economic Census areas that normally increase during the present period of the periodic cycle.

f) Security of ADP and Privacy is also being reduced; leaving the Bureau without a security staff in this area. This is a particularly awkward decision on the Bureau's part, following a recent Supreme Court decision upholding the Bureau's decision to deny access to census house lists to Essex County, N.J. on the grounds that it was "raw data" and protected by Title 13. Computer files are crammed with such sensitive information, and Bureau plans to shift responsibility for this mission to ADP Chief, on top of all of his other responsibilities, runs contrary to government-wide ADP security practice developed by OMB.

III. Major Observations:

a) Continued Delays: We share the concern raised by the Wall Street Journal, Tuesday, March 9th, entitled: "Census Details Lag Far Behind Schedule,

Angering Cities, Firms: Federal Money, Data Crucial to Business Involved;". Unavailability of detailed area-specific information on potential business markets, the availability of materials, and other information, contributes to business uncertainty. Such uncertainty hampers investment and retards progress towards a sustainable recovery. While decennial census cutbacks have not deprived the bureau of key personnel, abolishing positions for support troops in computer operations, population division, statistical methods, and decennial processing add to the delay, and thereby to the expense of completing the decennial census in a timely fashion.

b) Abolishing positions in non-decennial agricultural and economic programs at the Bureau at a time when these programs should be gearing up will only ensure that the problem described in a) will be perpetuated.

c) The Task Force is not alone in expressing these concerns:

1) Gov't Operations Chairman, Rep. Jack Brooks (D-Tx) has called upon the Congressional Research Service to study the problem, saying: "We spent more than $1 billion on the 1980 census and it now appears we are not going to be able to take advantage of much of the information collected because of a lack of funds to update existing reports. We will have to continue using outdated and less precise information, even though we have better data available.

2) In its annual report, the Joint Economic Committee cited the serious impact to the economy that could result from a lack of data from the 1980 census.

3) The House Subcommittee on Census and Population, Chaired by Rep. Robert Garcia will hold additional hearings on the Census RIF on March 16th.

d) Problems resulting from census staff reductions add to similar concerns about cuts at the Bureau of Labor Statistics. BLS has requested a $5.6 million supplemental appropriation. If this request is denied, the Current Population Survey would continue to run through 1986 on 1970 Census data. The Census Bureau, as a result would be deprived of $15.8 million in reimburseable fees from BLS.

IV. Recommendations: The Task Force analysis suggests that the Census Bureau RIF has been conducted in a "neutral" fashion. In other words, faced with a 16% reduction in their budget, the Bureau attempted to pare down staff in a manner that would least impact operations. However, the policy question, whether the Bureau could afford to make cuts of such magnitude at the support level were clearly never addressed. As a result, the Bureau has imperiled the mission of the 1980 decennial census, and possibily prejudiced the 1990 census (and other census programs) by acquiescing to staff reductions that will substantially add to delays in production of decennial census reports.

To avoid further deterioration of vital Federal data gathering at Census, the Task Force suggests:

a) The Subcommittee consider a supplemental appropriation for Census' S & E account.

b) Subcommittee staff review Task Force findings with appropriate Census Bureau management to determine what the Bureau's work requirements should entail as a matter of policy.

c) The Subcommittee request a postponement in the effective date, March 19th to enable the Subcomittee to complete its review before staff are separated from service.

d) That the alternative of furlough to RIF in the context of Census mission be fully explored in the event that the Subcomittee chooses to hold discussions with Census on these issues.

The Task Force recognizes that delay in implementing reduction in force risks increasing the ultimate size of the RIF. Such risks can be mitigated by careful planning, exploration of alternative budget savings, and of course, by the appropriation of supplemental funds. Many agencies faced with RIF in government stress the need to "get the RIF behind them." While we understand such concern, and have sharply criticized the impact of RIF on morale ourselves, we believe that concern for agency mission, in the long run, must be paramount.

Note: Summary Tables of Task Force Findings are enclosed. Branch data has also become available, and can be forwarded upon request.

ANALYSIS OF CENSUS RIFS POSITIONS ABOLISHED AT HEADQUARTERS

This analysis has three parts. In the first section we present the reductions that are clearly tied to the wind-down of the decennial census. In the second section, we present the reductions that are clearly tied to the reimbursable work done by the Census Bureau for other agencies. In the third section we present all other reductions. Reductions are presented by Division.

I. Decennial census wind-down:

Division	Position Abolished		Total Base
	Number	Percent *	Number
21 Computer Operations	40	15.9	252
34 Population	24	11.3	212
35 Statistical Methods	5	3.0	164
38 Decennial Census	13	10.0	130
51 Geography	9	6.1	146
54 Decennial Processing Staff	31	77.0	40
57 Field	30	29.7	101
Total Directly Attributable to the Decennial Census Wind-down	152	14.5	1045
II. Reimbursables			
33 Housing Division	3	4.5	167
32 Demographic Surveys	13	6.8	192
Total Directly Attributable to Reimbursables	16	6.2	259

*Percentages only include affected divisions.

III. Other

Divisions	Positions Abolished		Total Base
	Number	Percent	Number
Census Users			
03 Data User Services	10	8.3	120
16 Publication Services	28	25.9	108
39 Center for Demographic Studies	1	3	30
42 Statistical Research	10	14.9	67
Center for Social Science Research	2	14.2	14
Subtotal	51	15.0	339
Other Programs			
61 Economic Surveys	5	4.6	109
64 Agriculture	11	7.3	151
65 Business	20	11.8	169
66 Construction Statistics	6	5.7	105
68 Governments	3	2.1	142
69 Industry	20	9.6	208
71 International Statistics Program Center	5	4.2	118
73 International Demographic Data Center	3	12.0	25
Subtotal	73	7.1	1027
Administrative			
10 Assist. Director for Admin.	5	27.0	18
12 Administrative Services	19	10.2	187
14 Personnel	20	11.6	173
15 Organizational Management and Services	6	9.2	65
23 Technical Services	3	4.8	62
18 Finance	17	27.4	62
24 System Development	6	16.6	41
26 Systems Support	4	9.1	44
Subtotal	80	12.3	652

	Positions Abolished	
I. Decennial Census Wind-Down	152	40.9
II. Reimbursables	16	4.3
III. Other		
Census users	51	13.7
Other Programs	73	19.6
Administrative	80	21.5
	372	100.0

ELIMINATION OF CENSUSES

Senator WEICKER. Along with the outlying area—the agriculture census, I gather other mandated censuses that will be eliminated are the mid-decade census and the import valuation census. If these activities are not to be undertaken, should they be eliminated from the books?

Mr. CHAPMAN. In my opinion, sir, no, and the reason is that the Bureau and the statistical community in this country, generally, worked long and hard to get the mid-decade census as part of the law, and I think there will come a time in our fast-changing society when we are going to want that kind of data.

There are disadvantages, for example, to having a mid-decade census, but overwhelmingly I think the advantages are on the other side. It is simply a matter of money. At the time when the money is available, it will be a productive use of such money, and so I would not personally want to encourage the removal of that legislation from the books.

1990 DECENNIAL CENSUS

Senator WEICKER. There doesn't appear to be any funding requested for planning the 1990 census. A recent GAO report indicates the expense could run $4 billion or four times the cost of the 1980 decennial.

Have you considered requesting planning funds for the 1990 census?

Mr. CHAPMAN. In terms of the evaluation, first of all, of our 1980 census, that is the first step in planning for 1990 to understand better what we have accomplished and failed to accomplish in 1980. We have task forces working on that; our advisory committees are working on that; we are meeting with others in the statistical community. And in the 1984 budget, we will, for the first time, be asking for funding for 199[illegible] including the advance planning stages.

Senator WEICKER. You are requesting funds for the reconciliation of apparent geographic area and population coverage discrepancies identified in the 1980 decennial census.

What is the nature and magnitude of the apparent geographic and coverage discrepancies? And could reconciliation of these discrepancies have a bearing on congressional districting?

Mr. CHAPMAN. It will not have any bearing on congressional districting. I would like Mr. Kincannon, if he would, to give you the details on what it does involve.

Mr. KINCANNON. Mr. Chairman, that is one of a number of evaluation programs to compare the results of the census with independent estimates so we can understand how well we did, what errors we may have made and be able to move ahead with better operation, if necessary, in 1990.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. I have further questions which I will submit for response to the record. Thank you very much.

Mr. CHAPMAN. Senator, thank you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

Quarterly Financial Report to be Transferred from Federal Trade Commission

Your budget shows a program increase of $1.6 million and 47 positions for the Quarterly Financial Report to be transferred from the Federal Trade Commission. As I understand it, the QFR reports sales, profits, assets, and liabilities of major corporations with the primary user being the Bureau of Economic Analysis in calculating the national accounts.

Is this transfer dependent on legislation being passed? (NOTE: Census wants legislative authority to make reporting requirements mandatory).

No, the Census Bureau could start collection of these data without any legislation being passed. Existing provisions in title 13 give the Census Bureau authority to collect these data on a voluntary basis. Adequate resources are the only requirement that must be met before the Census Bureau can assume responsibility for this program.

If you cannot make this reporting mandatory, will you continue the function?

The very important uses of these data in national accounts and current economic policy decisions require that the program be continued. Not being able to make the reporting requirements mandatory would, however, greatly damage the program through reduction in the statistical reliability of the data. The program has been conducted on a mandatory basis by the FTC because sensitive financial data are collected and because the data must be highly reliable for use in the national economic accounts.

What was the funding and staffing level for this program at the FTC for Fiscal Year 1982?

The funding level for the QFR at the Federal Trade Commission for Fiscal Year 1982 was $1.97 million, and the staffing level was 45 positions.

What did the Bureau request for this program from OMB?

The Bureau's request to OMB for the Quarterly Financial Report was $1.935 million.

Is the budgeted level of $1.6 million and 47 positions the true cost for this program? If not, what is it?

The budget level of $1.6 million is less than the cost of the program. As it is presently operated by the Federal Trade Commission, the annual cost of the program is $1.935 million, the amount requested from OMB. The Bureau will employ measures to ensure that the program operates within the $1.6 million request.

Information Delays

An article appeared in the Wall Street Journal on Tuesday, March 9th with the headline "Census Details Lag Far Behind Schedule, Angering Cities, Firms: Federal Money, Data Crucial to Business Involved".

The article contends that Bureau delays in information processing contributed to business uncertainty. What are the primary reasons for these information delays.

Several factors which were outside the Bureau's control resulted in the need to extend the time scheduled to collect, process, and tabulate the data:

1. The census enumeration identified five million more persons than estimated. This increase could not be handled by the resources available to the Bureau or by the local officials reviewing the census results within the time allotted.

2. Litigation activities in a number of areas required the Bureau to conduct additional unplanned field checks of the counts before the courts would permit the Bureau to close the local offices and ship the questionnaires to the three centers to be processed.

3. The Bureau's primary commitments were to meet the Constitutional mandate of providing the apportionment counts to the President by January 1, 1981 and to meet the mandate of P.L. 94-171 to provide the redistricting counts to the states by April 1, 1981. These dates were successfully met.

4. A request for supplemental funding was submitted to Congress in February 1981; approval was made June 1981. Consequently, the Bureau had to postpone or extend activities to stay within the available funding. This resulted in a delay in completion of the processing activities as well as the postponement of publications until FY 1982.

How will the proposed budget address this serious problem?

The publications program was modified in Spring 1981 to ensure that production of the census publication series would be completed within the funding identified by the Department of Commerce and the Office of Management and Budget. These modifications include the production of some standard census reports on microfiche rather than printed reports, and the production of special tabulations such as census data by ZIP code area, and by local neighborhoods, on a cost-reimbursable arrangement rather than at no charge. The FY 1983 request provides the funding necessary to complete the production and issuance of all data products included in this publication program.

1980 Undercount

Your budget request lists several primary objectives for the 1980 decennial census. One objective was the reduction of the undercount, particularly among the minority groups. You claim that this objective was satisfied. Another of the primary objectives was to provide timely release of statistics to the user community.

-- What is the estimated overall undercount?

Our preliminary estimation of population coverage does not yield a valid estimate of the overall undercount, due to the fact that we have been unable to reflect the number of illegal aliens in the estimation scheme.

-- What is the estimated undercount rate for blacks, whites, and Hispanics? How do these rates relatively compare with the undercount estimates for the 1970 census?

Using the method of demographic analysis, the undercount rate for blacks is estimated at 4.8 percent. This is an improvement over the 1970 estimate of 7.6 percent. This method does not allow estimation of an undercount rate for Hispanics; however, preliminary results from the Post Enumeration Program measure a Hispanic undercount rate of 4.4 percent. No comparable estimate is available for Hispanics from 1970. Demographic analysis estimated an overcount for the category "white and other (non-black)" combined, but this apparent overcount may be due to the fact that an estimate for illegal aliens is not included in the estimates. Refinements of these measurements from the Post Enumeration Program will be available in October of this year.

-- Aside from the statutory requirements of reporting population counts to the President and the States, how does the release of the 1980 census data compare in time and quantity to the release of the 1970 census data?

The apportionment counts were delivered within the same relative time frame as 1970, and the reapportionment/redistricting counts were delivered to the states several months earlier in 1980. Issuance of the other data products will be 2 to 12 months later than the comparable 1970 products.

The volume of the 1980 publications program is greater than the 1970 program. For example, about 175,000 pages were printed in 1970 and about 250,000 pages will be printed in 1980; 2,000,000 microfiche frames will also be produced in 1980. The geographic entities for which data must be produced and verified is also greater than 1970. For example, the 1980 program provides data for 323 Standard Metropolitan Statistical Areas (SMSAs), an increase of 76 SMSAs; in 1970 data were produced for 248,000 enumeration districts, compared to 329,720 in 1980; and, finally, the number of blocks has increased by one million to 2,600,000.

-- Which year's income data were used for distributing general revenue funds for fiscal year 1982? Which year's income data will be used for fiscal year 1983?

The Bureau plans to use 1977 per capita estimates (1970 data adjusted for rate changes per IRS and BEA) for the 1982 General Revenue Sharing Program, since 1980 income data for local areas will not yet be available, and 1980 data for the 1983 program.

Questions Submitted by Senator Ernest F. Hollings

Salaries and Expenses Appropriation

The Bureau's current demographic surveys (CEN-37) have been cut back. The sample size for the monthly current population survey (CPS) has been reduced from 68,500 households to 58,000. And the survey of income and program participation (SIPP) has been eliminated. The cut back in CPS occurred in late fiscal year 1981 because of budget constraints faced by the sponsoring agency the Bureau of Labor Statistics. SIPP had been planned jointly for

several years by the Department of Health and Human Services and its predecessor agency and the Bureau. In connection with these surveys, questions such as the following could be asked:

-- What is the effect on data by the reduction in the CPS?

The sample size for the Current Population Survey (CPS) was reduced from 68,000 interviewed households per month to 58,000 during the first half of calendar year 1981. This reduction occurred in components of the CPS sample that were designed to achieve increased reliability in state and local estimates. Consequently, the sample cut had virtually no effect on the reliability of national estimates of employment, unemployment or other socioeconomic characteristics. The sample reduction did result in a decrease in the reliability of such estimates for some individual states.

-- What are the data consequences of eliminating SIPP?

The elimination of the Survey of Income and Program Participation (SIPP) will stop the development of information on the economic situation of persons and families in the United States. SIPP was being designed to collect detailed information on various sources of money and nonmoney income, taxes, and assets and liabilities, to produce improved estimates of income distribution, poverty, and wealth. The data were to be used to study the effect of eligibility for government transfer and service programs, tax reform social security funding problems, and other policy changes. Without the data from SIPP, users will have to continue using economic data from the annual supplement to the March Current Population Survey (CPS). Information is collected in the March CPS on the receipt of money income and noncash benefits, but there are limits on the amount of information which can be collected since the CPS is primarily a labor force survey.

-- What is the estimated annual savings of both the sponsoring agencies and the Census Bureau from the cutbacks?

This sample cut reduced the annual cost of the CPS to the Bureau of Labor Statistics by approximately $3.5 million.

The elimination of SIPP will result in a net saving for fiscal year 1983 of $1.3 million for the Bureau of the Census and $10.0 million for the Department of Health and Human Services.

Periodic Censuses and Programs Appropriation

The Bureau proposes several reductions in its planned 1982 agricultural and economic censuses carried out under its economic statistics programs. Particularly hard hit is the 1982 Census of Agriculture for which the Bureau proposes a savings of $10 million in its fiscal year 1983 request. The Bureau also proposes reductions in its 1982 Economic Censuses. A recent GAO report "Opportunities for Reducing the Cost of the 1982 Agricultural and Economic Censuses" (CGD-82-43, February 10, 1982) provides information on the censuses and possible cost reductions. Several questions could be asked about these censuses.

Census of Agriculture

-- *Did the Bureau consider raising the threshold for defining a farm for the Census of Agriculture? (The current threshold is $1,000 and has been in effect since 1974. GAO believes an increase in the threshold from the current $1,000 to $2,500 could save several million dollars.)*

-- *If the Bureau did consider a change in the threshold, how much savings were estimated at different levels?*

One reduction considered for the FY 1983 budget was to exclude farms with less than $2,500 of sales from the 1982 census. Our estimates indicated that this would save approximately $4.5 million. However, after discussions with the U.S. Department of Agriculture and other major data users, it was agreed that this alternative was not an acceptable approach in meeting their priority data needs. USDA and most other users require "all-farm data" at the county level.

Current USDA survey benchmarks require data for all farms from the census. In addition, many other Federal and state programs rely on complete data for allocations and benchmarks. Changing the threshold would effectively change the definition of a farm.

-- *Why did the Bureau reject such a change?*

Such a change would have meant that 600,000 farms or about 25 percent of all farms in the 1978 census would be excluded from the 1982 census and about 10 percent of the total land in farms would be eliminated. These farms represented over 30 percent of the farms in 1,100 counties. Geographically, this change would eliminate about a third of the farms in the New England and the South Altantic States. In addition, this alternative would reduce the agriculture data on minority operations. Over 50 percent of the 80,000 Black and other races enumerated in the 1978 census would not be included in the 1982 census; about 38 percent of the 128,000 farms operated by women would be excluded; and about 43 percent of the 23,000 farms operated by persons of Spanish origin also would be excluded.

Economic Censuses

There are serveral discrete portions of these censuses which could be dropped without affecting the other censuses. The commodity transportation survey (CTS) estimated to cost in total about $2 million, taken to measure the distribution and characteristics of shipments by manufacturing establishments, has several limitations. It places a heavy burden on the responding manufacturers, (it takes on average about 8 hours to complete the questionnaire). Bureau evaluations of the prior CTS have shown that there are limitations in the quality of data because of errors made by the respondents and some problems in sample design. The CTS is included in the Census of Transportation (CEN-65). Accordingly the Bureau could be asked:

--*Was the CTS considered for elimination?*

Each activity within the economic censuses was reviewed to evaluate the need for the data, respondent burden, and cost to the government. The Commodity Transportation Survey (CTS) is used by the Department of Transportation, Interstate Commerce Commission, Department of Energy, U.S. Corps of Engineers, state and local agencies,

and the private sector for analyzing future transportation needs, designing regional economic development programs, market analysis, and estimating revenues by mode of transport. The CTS is a sample survey with reports from approximately 25,000 of 350,000 manufacturing establishments.

--If so why did the Bureau reject that possibility in favor of continuing that survey?

The reductions proposed consist of those activities which provide the least loss of data while meeting the budget target for fiscal year 1983.

Also included in the economic censuses are several other discrete portions, such as the survey of minority owned businesses estimated to cost in total about $1.7 million, and special tabulations on retail businesses located within geographic areas identified as major retail centers estimated to cost in total about $400,000. In connection with these discrete portions the Bureau could be asked:

-- Did it consider eliminating these or other portions of the economic censuses?

The Survey of Minority-Owned Businesses is used by the Minority Business Development Agency, Small Business Administration, and the private sector to measure the extent of business ownership by minorities and to monitor Federal, state, and local programs designed to enhance minority participation in business. This survey provides the only nationwide source of data on this subject.

The data published for Major Retail Centers (MRC's) are used by local governments, regional planners, and the private sector for economic forecasting, market analysis, measurement of regulatory impact, and economic planning. The MRC's are defined by user groups in the respective metropolitan areas and provide the only subcity economic data resulting from the censuses.

-- On what basis did the Bureau decide to continue these portions of the economic censuses?

These programs, along with all elements of the economic censuses were reviewed for possible reduction or elimination. They have been retained because of the low cost and the minimal burden on respondents. The cost of either program would be substantially higher if these programs were not conducted as a part of the basic censuses.

Data Processing Equipment

About $4.8 million is requested for data processing equipment (CEN-85). This line item apparently includes two parts, rental and purchase of equipment and long-range planning for replacement of the Bureau's computer facilities beginning in fiscal year 1984. In its long-range planning the Bureau is following the policies and guidelines included in OMB Circular A-109. In connection with the data processing line item, the Bureau could be asked:

-- How much of the $4.8 million will be spent for the long-range planning and how much for rental and purchase of equipment?

Approximately $2.4 million is associated with the A-109 acquisition efforts (long-range planning). The remainder of the FY 1983 funds are primarily for the purchase of equipment and related support services, including maintenance and site preparation.

-- *How much does the Bureau anticipate spending for the replacement of its computer facilities?*

While the overall budget request for the A-109 acquisition program approximates $96 million over a 6-year period, a significant portion relates to the acquisition of additional resources as well as the replacement of equipment in use at that time. The actual replacement of the central computer complex is scheduled for 1987 or 1988.

-- *Considering the recent cutbacks in the Federal budget for the statistics area, are the computer requirements initially determined by the Bureau still valid?*

The Bureau is re-evaluating all user requirements for the future years. Given the recent cutbacks in the Federal budget, we anticipate that requirements may be less than originally planned.

-- *How many shifts does the Bureau have currently working on computer operations? How many shifts were working in 1981 and 1980?*

At present, computer operations at the Bureau are essentially conducted on a 2-shift/5-day workweek. However, the mainframes are placed in a limited service mode on the third shift thereby providing the capability for interactive terminal activity with virtually no operations personnel required to be on hand during this period. Weekends are primarily set aside for hardware/operating systems testing, maintenance and necessary, though infrequent, emergency or other time-critical processing. The only consistent exception relates to the round-the-clock processing on two peripheral systems (the IBM 3800 printing system and the COMp 80/2 microform device) which have been inundated with massive workload requirements for some time.

For comparison, the Bureau operated on a 3-Shift/5-6 day schedule during FY 1981 and a 3-shift/6+ day basis in FY 1980.

-- *Does the Bureau currently or in the foreseeable future have a lack of computer capacity, considering the budget cutbacks now occurring or anticipated?*

Currently, there is no lack of computer capacity at the Bureau. We are reassessing capacity requirements and the replacement system will be designed to meet these needs. Budget cutbacks have not adversely affected our computer capability.

-- *Is the Bureau currently negotiating to purchase or lease any computers? Does it have any computers on order? If so, would the Bureau provide a description of the computers and the cost involved. Are these computers now needed in view of current budget cuts?*

The Bureau is involved in the process of acquiring a "bridge" computer system. Though no contract has yet been awarded, vendor proposals have been received and evaluated, and the formal systems

"benchmarks" are underway. We anticipate contract award by July, and rental to begin in FY 1983. We will lease the system while we continue assessment of future capacity requirements.

As for the system itself, it is sized to provide capacity equivalent to 20,000 C.P. Hours, 20 Billion Bytes of Mass Storage, and 150 interactive and 6 remote batch terminals. First-year rental costs are estimated to be approximately $4 million.

The Bureau is evaluating the potential for out-year processing shortfalls without the "bridge" computer system in a full production mode. The "bridge" replaces the existing Univac 1100/44 system which has officially been termed obsolete by the manufacturer. Since the close of FY 1982 marks the end of vendor software support on this system, and with our intent to move to a more efficient operating system on our other large-scale computers, retention of the 1100/44 would create software compatibility problems. This situation would be further compounded by the fact that several of the 1100/44 peripheral devices are already in need of refurbishment or replacement.

-- *Considering that the Bureau is about 2 years behind its initial projections in its long-range planning, does it still expect to begin replacing its computer facilities beginning in fiscal year 1984? See GAO report "The Bureau of the Census Must Solve ADP Acquisition and Security Problems" (AFMD-82-13, October 21, 1981). Does the Bureau believe that its long-range planning will result in reduced dependency on large clerical staffs for both the 1987 economic and agricultural censuses and the 1990 Decennial Census of Population and Housing?*

The current schedule calls for the replacement of the central computer facility in FY 1987. The new computer system for processing the economic and agriculture censuses will reduce clerical processing for the 1982 censuses and this system is also planned for the 1987 censuses. Plans have not been developed for the 1990 Decennial Census, but reductions to clerical processing will be investigated.

National Telecommunications and Information Administration

STATEMENT OF BERNARD WUNDER, ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION

ACCOMPANIED BY:

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DENNIS CONNORS, DIRECTOR, OFFICE OF PLANNING AND POLICY COORDINATION
DONALD JANSKY, ASSOCIATE ADMINISTRATOR FOR FEDERAL SYSTEMS AND SPECTRUM MANAGEMENT
RICHARD SHAY, CHIEF COUNSEL
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ARLENE TRIPLETT, ASSISTANT SECRETARY FOR ADMINISTRATION
NANCY RICHARDS, DIRECTOR, OFFICE OF BUDGET, DEPARTMENT OF COMMERCE

PREPARED STATEMENT

Senator Weicker. Our next request is that of the National Telecommunications and Information Administration. The amount requested is $12,417,000 and provides for 196 permanent positions. The public telecommunications facilities grants program is proposed for elimination and the Federal Government will limit its efforts in telecommunications policy formulation and advocacy to major issues.

Appearing on behalf of this request is Bernard Wunder, Assistant Secretary for Communications and Information. He will identify his associates. We will be pleased to hear your statement. It will be included in the record in its entirety.

[The statement follows:]

STATEMENT OF BERNARD J. WUNDER, JR.

Thank you for giving me this chance to briefly discuss the 1983 budget request for the National Telecommunications and Information Administration (NTIA).

For fiscal 1983, NTIA is requesting an appropriation of $12,417,000 for salaries and expenses. This represents a reduction of about $4,066,000 from the 1982 level of $16,483,000. The President's 1983 budget request also recommends that the Public Telecommunications Facilities Program be terminated. We strongly believe, however, that this program is not needed.

Under the 1978 legislation and accompanying Executive Order establishing it, NTIA has basically two roles. First, it fulfills the President's statutory responsibilities under section 305 of the Communications Act (47 U.S.C. Section 305) for managing the Federal Government's own use of the radio frequency spectrum. Second, NTIA serves as the chief Executive branch policy adviser on domestic and international communications matters.

Although substantial decreases are proposed in our 1983 budget -- chiefly in our domestic and international policy development activities -- we believe that these reductions are warranted for the following reasons. In regard to broadcasting, cable television, and related services, our participation in Federal Communications Commission rulemakings will not have to be as extensive in fiscal 1983 as was true in the past. This is because the FCC, in large part, has already acted affirmatively on many of our major policy recommendations -- in the area of direct broadcast satellites, low power television, and radio and cable television deregulation, for example. In the communications common carrier area, moreover,

the recently proposed settlement of the Justice Department's AT&T antitrust case, plus the FCC's adoption of many of our proposals in the Second Computer Inquiry, have also resolved many of the outstanding major communications policy issues.

We do intend to closely monitor the implementation of the basic policy decisions in telecommunications that have already been made. We also intend to participate in any new policy questions that may arise. The level and the intensity of our necessary involvement will be significantly lower, however, than was true in previous fiscal years, and this change is appropriately reflected in reductions in our proposed budget.

The Administration, in addition, has recommended that the Public Telecommunications Facilities Program be terminated in fiscal 1983, because we believe that this grant program has accomplished its fundamental goals. The Program was established in 1963, and it was charged with helping to extend public telecommunications service to the American public. At present, however, more than 90 percent of the public has access to public television service, and about 74% of the population has access to public radio service. New technologies today, moreover, offer the public an increasing diversity of choices that they previously did not enjoy.

Those few areas of the country that currently do not have public broadcasting service available over the air include very remote rural areas where the costs of providing service on a per-viewer or per-listener basis would be very high. Nor do we consider it an appropriate use of limited Federal funds to provide operating capital to existing public broadcasting stations, which instead should rely upon their communities for such operational support. Accordingly, we strongly urge the

Subcommittee to support the Administration's recommendation to terminate the Facilities Program in fiscal 1983.

To summarize our recommendations, Mr. Chairman:

o First, we are recommending appropriate reductions of about $4.5 million in our programs including those domestic and international policy development, and other programs. These reductions are warranted, in my judgment, to take into account the fact that many of the major communications policy controversies in recent years have now been resolved. At issue today is not the formulation of new policies, but rather the implementation of decisions that have already been made. This will require less effort on our part, hence our fiscal 1983 budget reductions.

o Second, our budget recommendations reflect the proposed termination of the Public Telecommunications Facilities Program. This matching grant program has been successful in assuring that almost all of the American public has public broadcasting available to them. We thus strongly believe that there is no longer any compelling need for this Federal grant program and it should, therefore, be terminated next fiscal year.

In conclusion, we recommend that the Subcommittee act favorably on our budget request of $12,417,000. NTIA stands ready, of course, to provide the Subcommittee with whatever further information in this regard you may require.

INTRODUCTION OF ASSOCIATES

Mr. WUNDER. Thank you, Mr. Chairman. On my right is Sue Stuebing, Deputy Assistant Secretary. On my left is Dennis Connors, Office of Planning and Policy Coordination.

AREAS OF INVOLVEMENT

Thank you, Mr. Chairman. As you indicated, we are asking for $12.4 million, a reduction of $4 million from the fiscal year 1982 level. Quite frankly, Mr. Chairman, what I have attempted to do is to bring back this agency to roughly where it was in the pre-Carter administration days. In terms of areas of involvement, I don't see us involved to such as great an extent in the policy area. We are going to concentrate on major issues and not take up every issue for which the FCC has a docket.

An indication of the type of filing that I am interested in is where we have expertise in the sciences and management, and we can make a significant contribution to the FCC proceedings in that area. That is the type of standard that I intend to use in filing statements.

The overwhelming majority of NTIA's objectives involve administration of the Federal spectrum and policy. As I indicated, we will still be active in those areas.

Another area I intend to be very active in is international conference work and the international policy area and, additionally, another area would be emergency mobilization planning.

Thank you, Mr. Chairman.

PUBLIC TELECOMMUNICATIONS FACILITIES PROGRAM

Senator WEICKER. Your budget proposes no funding for the public telecommunications facilities program. As you recall, with no funding requested last year, the Congress provided $18 million for facilities grants believing that there is still much work needed to be done to assure that most Americans have the opportunity to see and hear public broadcasting. The $18 million generated $100 million in requests, all which must be supported by local matching funds. Support for the program is widespread.

One of the goals of NTIA is to extend delivery of public telecommunications services to as much of the population as feasible. Why are we now being asked to terminate the facilities grant program?

Mr. WUNDER. I would say two reasons, Mr. Chairman. One, if you look at it from the cost standpoint, the areas we have left in the country to be funded are the most expensive in terms of being able to bring service to those areas. They are going to be very costly.

Second, it is a question of budgetary priorities. If you need to reduce Federal spending, the facilities program, in my judgment, is one of those areas where the budget can be cut. Additionally, I understand there is widespread support for the program in the Congress. So long as I have the program, I intend to use the money to bring service to unserved areas.

The figures now show virtually complete coverage for public television and roughly 74 percent for public radio. Eighty percent is really like 100 percent due to the lack of spectrum for the remaining 20.

Senator WEICKER. The National Public Radio claims 31 percent of the country cannot receive radio signals.

Mr. WUNDER. I know those figures. Those figures have been updated by our people. That figure is an old figure. What we have done is to look at the new funding applications for fiscal year 1981 and update that number to reflect that.

In addition, we looked at the structure permits at the FCC, and it does come to 74 percent.

FIVE-YEAR PLAN

Senator WEICKER. The authorization legislation for public telecommunications facilities programs passed in 1978 called for a 5-year plan to be updated every year. We saw a draft last year, but it was never released. Knowing full well that any long-term plan would request funding levels higher than is now anticipated by this administration, I would still like to know when will this mandated plan be released, and when will we see it?

Mr. WUNDER. That will be released fairly shortly, Mr. Chairman. I looked at that plan—the one that was done—and it is essentially one done by the previous administration. I wanted to rewrite that plan to reflect this administration's views on how best to proceed, and I would suspect it will be finished shortly.

PUBLIC TELECOMMUNICATIONS FACILITIES ADMINISTRATION

Senator WEICKER. If public telecommunications facilities were to be funded, what would be the cost for salaries and expenses?

Mr. WUNDER. It would be roughly $800,000. We asked for $250,000, so we would need $550,000 more than what we requested in the budget.

REGULATION OF CABLE AND OTHER TELECOMMUNICATIONS INDUSTRIES

Senator WEICKER. One major function of the National Telecommunications and Information Administration is to develop policies aimed at creating an improved legislative, administrative, and regulatory framework for TV, radio and mobile radio.

In view of the present proliferation of cable TV stations and the rapid advancement of telecommunications technology available to the general public, does the proposed 25-percent reduction in this program reflect a policy of pursuing minimal regulation of these industries?

Mr. WUNDER. Yes, sir. Let me add to that. Most of that—in fact, all of that—are video cassettes. The cable industry now is deregulated at the Federal level. About the only thing left in terms of cable regulation is the franchise treaties with the cities and municipalities.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. If there are further questions, we shall submit them for the record and for response to the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

FCC FILINGS

You state in your budget document that NTIA does not feel it is necessary to file in every proceeding before the FCC relating to broadcasting, cable, and related services. Under what conditions will you file before the FCC?

After a careful review of relevant Notices of Inquiry or Notices of Proposed Rulemakings, NTIA will base its decision to participate in a proceeding on whether it can offer new or unique information on the subject of the proceeding. The ability to conduct economic, technical, or legal analysis likely to result in data helpful to the FCC's decisionmaking process will be a principal factor in NTIA's decision to participate. In addition, the relationship between the FCC's objective in a particular proceeding and objectives which guide NTIA's activities will be a principal factor as well.

Does this represent a change in policy from previous years?

Yes. In previous years NTIA filings before the FCC were extensive and frequent.

Do you anticipate a savings in operating costs as a result of this policy?

Yes, NTIA does anticipate a savings as a result of this policy.

NONIONIZING RADIATION

The National Telecommunications and Information Agency proposes to terminate its role as the coordinator of Federal research in the biological effects of nonionizing radiation stating that "this role is more appropriate for an agency which is involved in this research". Has a specific agency been assigned the responsibility and funds to assume this role from NTIA?

There are several agencies which perform research on nonionizing radiation. Since NTIA is primarily a policy making organization, and the biological effects of nonionizing radiation is a health related issue, NTIA believes that the coordination of Federal research in this area would be more appropriately performed by one of those agencies which is involved in this research.

STATE ASSISTANCE

Why is your program for coordinating Federal telecommunications assistance to the States being terminated in FY 1983? What other alternatives would you propose for reducing the duplication of telecommunications systems in the States or do you believe Federal involvement is simply no longer needed in this area? How do the States feel about this proposal?

The effort is not being terminated, only reduced. The most effective and important part of the effort, involving public safety communications is being continued. An NTIA staff member works with other agencies that have policy and grant authority for emergency medical service radio systems. Planning information on 911 systems including costs, benefits and potential funding methods is provided

to state and local governments. Finally, NTIA works with the Federal Emergency Management Agency (FEMA) and the National Communications System (NCS) on the telecommunications aspect of emergency response planning, a task that requires coordination with the states.

In the past, (FY 79-81) four small awards, each less than $25,000, went to support telecommunications planning at the state and local community level, as pilot projects to demonstrate to the states and communities the value of such planning. These efforts were completed and documented, and the results are available to all the states. It is this effort that has been curtailed along with NTIA's work to disseminate new telecommunications technologies to the States. Private industry is actively promoting new technologies and has also been stimulated to assist states in systems planning, particularly the land mobile radio industry. Hence, further effort by NTIA in this area is no longer deemed necessary.

TECHNICAL ANALYSIS IN THE BROADCASTING AREA

You propose to reprogram FY 1982 funds from the Broadcasting, Cable and Special Services technical analysis area on the grounds that much of your work in this area has been accomplished. What has been the result of your efforts?

Work in FY 81 and 82 has produced a new, basic understanding of the complex frequency assignment problem and a scientific method with which to assign frequencies. The methodology now exists as research results.

As part of the research effort, NTIA has evaluated the specific frequency assignment problems associated with UHF television, particularly with regard to the influence of consumer receivers. These results have been made available to the FCC.

Program activity has also produced new techniques for assigning frequencies to individual broadcast installations on a case-by-case basis, as is the current practice in some services such as Low Power TV. This work also included the development of new information on modern broadcast receivers that, when incorporated with the frequency assignment procedures, allows for expanded service from available broadcast spectrum.

NTIA has also commented on and advised the FCC regarding various technical issues of concern to the Commission. Technical advice has been increasingly provided by informal communications with the Commission, both to the Office of Science and Technology and to the other Bureaus.

What further involvement is needed in ongoing FCC proceedings such as Direct Broadcast Satellite, Low Power Television, VHF Drop-Ins, and the establishment of new AM stations by eliminating clear channels?

Each of the proceedings cited raises complex technical issues that are not effectively resolved using traditional design and planning procedures. Other issues, such as the Cellular-Mobile Radio, High Definition Television, etc., raise equally complex and non-traditional questions dealing with realiable, cost-effective long- and short-term planning and policy development. In some cases, such questions become more acute in a deregulated environment.

A fundamental requirement exists for a strengthening of the frequency assignment methodology currently under development and for

its adaptation to particular radio services. That effort is being pursued on a limited basis in the current NTIA program aimed at spectrum engineering in FY 82 and 83.

NTIA has been approached by the FCC for technical assistance in developing efficient procedures for processing Low Power TV license applications that will minimize the labor and time required to complete these actions. Such work might include more efficient selection of frequencies based on the adoption of existing frequency assignment research results.

Additional technical research may be necessary to permit selective spectrum sharing to allow maximum entry into those markets that are now spectrum limited. Numerous issues are now before the FCC where such considerations apply. In addition to those cited in your question, high definition TV, 900 MHz mobile radio, and digital mobile radio are representative of issues which will place new demands on the available spectrum and which may not be amendable to effective sharing, frequency assignment, etc. using existing methods.

How much effort will be devoted to these matters?

In regard to the issues raised in the aforementioned question, no direct research is being conducted at this time nor planned in the near future. However, the increased understanding of frequency assignment technology discussed above, and which is an ongoing part of NTIA's research effort, is expected to influence decisions in each of these matters. This technology is also finding more direct application in the Government frequency assignment process (the IRAC generally) and may also find application in new Air Traffic Control communications and navigation systems.

NTIA will also continue to comment on and provide technical advice to the Commission on a limited basis on issues dealing with broadcasting and related matters.

ENHANCING MINORITY PARTICIPATION

What actions have you taken in FY 1981 and thus far in FY 1982 to enhance the participation of minorities in the field of telecommunications?

NTIA's effort to enhance the participation of minorities in the field of telecommunications is developed under two major goals:

A. To broaden diversity of ownership and employment in telecommunications services; and

B. To promote the continued economic viability of minority-owned broadcast stations as well as other telecommunications facilities.

In FY 1981, as in 1982, NTIA's Minority Development Telecommunications Program has assisted a number of Federal agencies to develop and administer loan and loan guarantee policies which are continuing to increase minority ownership of broadcast, cable, local distribution and telecommunications facilities.

From January 1980 through January 1982 the number of stations owned by minorities increased from 66 to 138, a rise of over 100 per cent. From January 1981 through January 1982 an increase from 33 to 67 in the number of loans and loan guarantees for minorities in telecommunications was experienced.

Additionally, in FY 1981 NTIA assisted in the design and development of the National Association of Broadcasters/Minority Broadcast Investment Fund's (MBIF) national model minority management training program. In FY 1982, NTIA is continuing with its assistance to the NAB/MBIF in the implementation of this training program.

Furthermore, in FY 1982 NTIA has participated with the FCC's Advisory Committee on Alternative Financing for Minorities. This committee has recommended regulatory, technical/management and financial assistance for minorities, which would open up more avenues of opportunities for minority ownership in the field of telecommunications.

Also, NTIA, in FY 1982, will initiate a nation-wide outreach, technical assistance effort to minorities and women interested in new ownership or expansion in the telecommunications field.

How is work proceeding on the alternative rating system you mentioned in last years budget submission. What has been or will be gained from this effort?

Work on an alternative rating system was not an effort which was included in NTIA's FY 1982 March Budget Request which was approved by Congress.

AT&T SETTLEMENT

You indicate that the proposed AT&T antitrust settlement resolves many of the problems with AT&T's participation in competitive activities and, thus, the need for your involvement in Congressional and FCC proceedings is reduced. Aren't the problems created by the settlement -- e.g., the need to reevaluate existing regulatory policies, design transitional mechanisms, and ensure local operating company viability -- likely to outweigh the problems which are resolved by settlement over the next couple of years?

No. Most of the activities that will take place as a result of the settlement will either occur without significant NTIA involvement, or will be substantially completed before the end of this fiscal year. To take your example of the need to reevaluate existing regulatory policies, we have already begun examining that issue, and we anticipate that the FCC will formally begin that process as soon as the settlement is approved. AT&T, the operating companies, and the rest of the telecommunications industry will need to know, as soon as possible, to what policy revisions they will be subject, and we will do everything within our power to ensure that the revision process is completed quickly. As a result, we expect that the FCC will have received NTIA's views on these issues by the end of September.

Local operating company viability is not an area in which NTIA will have significant involvement. The Department of Justice has already indicated that, with the advice of state commissions and the FCC, it will ensure that the divested portions of the BOCs are given all assets necessary to perform their designated telecommunications functions and have sufficient resources to remain financially and technically viable enterprises. The state commissions and the FCC will be responsible for determining the value of the assets subject to their respective jurisdictions and the appropriate rate of return on those assets.

NTIA will play a role in the design of transitional mechanisms necessitated by the settlement, but we anticipate that these transitional problems will be far less significant than those which would have arisen without the settlement.

TELECOMMUNICATIONS SYSTEMS PROCUREMENT

Why are you reducing your role in the telecommunications systems procurement and management area?

The responsibility for promulgating Federal policies for the procurement and management of telecommunications systems is vested in OMB. NTIA's role was to advise OMB on policy matters. NTIA feels that the studies done in the past have resulted in an adequate basis for future policy analyses. However, NTIA will continue to maintain a presence in this area to aid OMB in their area of responsibility.

Have past efforts not proven to be cost beneficial?

Yes. OMB, with advice from NTIA, has been successful in carrying out its responsibility for Federal telecommunications procurement and management policy setting and oversight. Substantial savings have been realized by OMB through the curtailment or termination of system procurements.

How much money will the Government spend on such system procurements in FY 1983?

Based on the data submitted by Federal agencies to OMB as required by the OMB Circular A-11, Exhibit 43B in conjunction with the FY 1983 budget submissions, approximately $8 billion will be obligated for Federal telecommunications systems in FY 1983.

Apart from NTIA, who in the Administration reviews procurement practices?

OMB reviews system procurements identified in agency budget submissions, and has responsibility for Federal telecommunications procurement and management policy setting and oversight. GSA reviews certain telecommunications procurements of certain agencies in conjuction with its operation of FTS, and provides regulation of Federal procurement practices, generally. The Emergency Communications Working Group of the Emergency Mobilization Board has proposed that DOD, through NCS, will review all agency telecommunications procurements in the future to ensure compliance with the goals and objectives of the emergency communications five-year plan.

ELECTRONIC MAIL SERVICE

Now that the U.S. Postal Service has begun to offer electronic mail services, how will your planned activities in this area be altered? How should the effect of the Postal Service's actions on competition in communications services be evaluated?

While the U.S. Postal Service has begun its ECOM offering, the authority for that action is presently being questioned before the courts. We anticipate required Postal Rate Commission proceedings to be undertaken focusing on the Postal Service's offering, its costs, rates and effects on competition. We also anticipate renewed controversy as the USPS seeks to expand its service offerings with, for example, the acceptance of magnetic tapes over-the-counter bypassing communications firms entirely. ECOM is only the initial implementation of a much larger role for the Postal Service, which has been under study by the USPS for 13 years. The extent and impact of Postal Service competition depends not only on the present offering, but also on both hardware enhancements made to ECOM (which expand the Service's

role toward the Electronic Message Services Systems (EMSS) concept) and software enhancements that compete directly with present and planned commercial service bureau and communications company offerings. Congressional oversight and interest is continuing as well, and beyond ECOM is likely to focus on the question of Postal Service involvement in any "Generation III," or terminal-to-terminal electronic message service. NTIA will continue to support these proceedings, though they are likely to be substantially concluded by FY 1983.

Much of the discussion on the role of the Postal Service in electronic mail has focused on future volume and revenue needs for all types of mail required for the USPS to remain viable. It is now more widely recognized that ECOM and similar offerings will not have a significant impact in that regard over the coming decades. Thus the focus should more properly turn to the impact of Postal Service actions in ECOM on competition, innovation and prices in the electronic message industry, and in the entire communications and data processing industry. There the supposed justifications for Postal Service involvement evaporate, especially when considering the marketplace distortions likely to be caused. These growing, competitive and innovative markets so vital to our Nation's future will function best when freed from unnecessary government intervention.

PUBLIC TELECOMMUNICATIONS FACILITIES GRANT PROGRAM

NTIA contends that intent of the legislation has basically been fulfilled -- particularly with regards to the first objective of the Act, which focuses on the extension of public telecommunications services nationwide. What about the second objective of the Act -- "to increase public telecommunications services and facilities available to, operated by, and owned by minorities and women"? Can NTIA honestly contend that this particular intent of the legislation has been fulfilled? And, if so, how can it substantiate such an erroneous contention?

Yes, over the past 3 fiscal years NTIA has awarded over 200 grants totalling over 46 percent of projects funded in fulfillment of the second objective of the Act "to increase public telecommunications services and facilities available to, operated by and owned by women and minorities."

What has been NTIA's contribution to the increased participation and involvement of minorities and women's control of public telecommunications facilities?

In addition to providing grants (see previous answer), NTIA has an active outreach effort offering technical assistance, and printed and video information. NTIA has sponsored teleconferences and conferences. Representatives from the Public Telecommunications Facilities Grant program attend and participate in conferences offering information on the program and invite prospective applicants to file applications.

The new rules and regulations governing the Public Telecommunications Facilities Program have reorganized the old funding priorities. Could you describe the difference between the old and the new and the rationale for the change?

A complete explanation of the old and new funding priorities as well as a detailed rationale for the change is included in the Federal Register, March 15, 1982, pages 11230 through 11232. A copy of this section of the Federal Register is attached.

II. Policy Statement.

A. Priorities.

In Appendix B to the PTFP Report and Order, 44 Fed. Reg. 30,898, 30,920-21 (1979), NTIA set out a list of prorities which would govern the Agency's evaluation of grant applications for the planning and construction of public telecommunications facilities. The list, as amended in 45 Fed. Reg. 1988, 1991-2 (1980), contains five basic priorities:

- Priority I—Provision of Telecommunications Facilities for First Service to a Geographic Area
- Priority II—Activation or Expansion of Telecomunications Facilities for Significantly Different Additional Service
- Priority III—Improvement of Existing Broadcast Station Facilities
- Priority IV—Augmentation of Existing Broadcast Station Facilities
- Other Cases

NTIA derived these priorities from the list of criteria enumerated in section 393(b) of the 1978 Act. However, NTIA's experience with this list of priorities has indicated that to effectively accomplish the primary purpose of the 1978 Act—namely, to "extend the delivery of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means. . . ," 47 U.S.C. § 390(1)—it must amend Priority I to explicitly state that only projects to plan or construct new facilities to bring public telecommunications services to presently unserved geographic areas will be considered under Priority I.

As set out at 45 Fed. Reg. 1991, Priority I includes two subcategories:

(A) Projects to establish telecommunications facilities which include local origination capacity. This category includes the activation of new facilities which can provide a full range of radio and/or television programs including material that is locally produced. Eligible projects include new radio or television broadcast stations, new cable systems, or first public telecommunications service to existing cable systems, provided that such projects include local origination capacity.

(B) Projects to extend existing telecommunications delivery systems. This category includes projects such as increase in tower height and/or power of existing stations and construction of translators, cable networks and repeater transmitters. No local origination capacity is required.

Priority I and its subcategories only apply to grant applicants proposing to plan or construct new facilities to bring public telecommunications services to geographic areas which are presently unserved—i.e., areas which do not receive any public

telecommunications services whatsoever. (It should be noted that television and radio are considered separately for the purposes of determining coverage.) Nevertheless, during the past several years many applicants have sought to obtain Priority I consideration for applications proposing to plan to construct new facilities with local origination capacity to serve areas which already receive some public telecommunications services from distant sources through cable systems, translators or repeater transmitters.

We are, therefore, amending Priority I to explicitly provide that NTIA will only consider proposals to plan or construct new or expanded facilities to extend public telecommunications services to geographic areas not presently receiving any such services. This change is being affected by: deleting the word "Service" from the phrase "Facilities for First Service to a Geographic Area" and inserting in lieu thereof the words "Radio and Television Signals"; deleting the phrase "to establish public telecommunications facilities" from subcategory A of Priority I; deleting the term "activation" from subcategory A of Priority I and inserting in lieu thereof the words "planning or construction"; deleting the phrase "to extend existing telecommunications delivery systems" from subcategory B of Priority I and inserting in lieu thereof the phrase "which do not include local origination capacity"; inserting the phrase "which will result in providing public telecommunications services to previously unserved areas" after the words "repeater transmitter"; and deleting from subcategory B of Priority I the last sentence "No local origination capacity is required." As amended herein, Priority I will read as follows:

> Priority I—Provision of Public Telecommunications Facilities for First Radio and Television Signals to a Geographic Area. Within this category, we establish two subcategories:
>
> A. Projects which include local origination capacity. This category includes the planning or construction of new facilities which can provide a full range of radio and/or television programs including material that is locally produced. Eligible projects include new radio or television broadcast stations, new cable systems, or first public telecommunications service to existing cable systems, provided that such projects include local origination capacity.
>
> B. Projects which do not include local origination capacity. This category includes projects such as increase in tower height and/or power of existing stations and construction of translators, cable networks and repeater transmitters which will result in providing public telecommunications services to previously unserved areas.

Under this priority, we will consider an area served when it receives a public television signal from a distant source through a cable system which has a penetration rate of 50 percent. (An applicant proposing to plan or construct a facility to serve a geographical area, which is presently unserved, should indicate the number of persons who would receive a first public telecommunications signal as a result of the proposed project.) As a general rule, the greater the number of persons who would receive a first public telecommunications signal through a particular project, the greater the probability NTIA will fund the project.

In addition, as a part of its primary obligation to "extend" public telecommunications services to unserved areas, NTIA believes it must maintain public telecommunications services where they presently exist. This is especially true when a station provides the only public telecommunications services to an area and is in danger of going off the air through the loss of a transmitter, tower or other essential facilities. NTIA believes it is more important and economical to "maintain" (or "improve") and augment such a facility than to plan or construct additional facilities to serve an area. Consequently, NTIA is amending its list of priorities by subordinating the activation or expansion of telecommunications facilities for significantly different additional service to the improvement and augmentation of existing broadcast station facilities.

To accomplish this, NTIA is amending the list of priorities by creating several more narrowly defined categories. Priority II, as amended, now provides for:

> Replacement of Basic Equipment of Existing Essential Broadcast Facilities. Projects eligible for consideration under this category include the replacement of obsolete or worn out equipment in existing broadcast facilities which provide either the only public telecommunications signal or the only locally originated public telecommunications signal to a geographical area.

In order to show that the replacement of equipment is necessary, applicants must provide evidence indicating excessive down time, or a high incidence of repair. Additionally, applicants must show that the facility is the only public telecommunications facility providing a signal to a geographical area or the only facility with local origination capacity in a geographical area. Applicants must also show that they have been unable to obtain the necessary funds from the local community.

In the new Priority III, NTIA has combined elements of former Priorities II and III. Priority III now provides for:

> Establishment of First Local Origination Capacity in a Geographical Area. Projects in this category include the planning or construction of facilities to bring the first local origination capacity to an area already receiving public telecommunications services from distant sources through translators, repeaters and cable systems.

Applicants seeking funds to bring the first local origination capacity to an area already receiving some public telecommunications services may do so, either by establishing a new (and additional) public telecommunications facility, or by adding local origination capacity to an existing facility. (A source of a public telecommunications signal is distant when the geographical area to which the source is brought is beyond the grade B contour of the originating facility.)

Under the new Priority IV, NTIA provides for:

> Replacement or Improvement of Basic Equipment for Existing Broadcast Facilities. Projects eligible for consideration under this category include the replacement of obsolete or worn out equipment and the upgrading of existing origination or delivery capacity to current industry performance standards (e.g., conversions to color, stereo, etc.; improvements to signal quality and significant improvements in equipment flexibility or reliability).

This category broadens subcategory B of former Priority III to include the replacement or improvement of all types of equipment not included within Priority II. The distinction between Priority II and Priority IV is that Priority II is only for the replacement of basic equipment for essential facilities. Where an applicant seeks to "improve" basic equipment in its facility (i.e., where the equipment is not "worn out"), or where the applicant is not an essential facility, NTIA would consider the applicant's project under Priority IV. As under the new Priority II, applicants seeking to replace or improve basic equipment under Priority IV should show that the replacement of the equipment is necessary by including in their applications data indicating excessive down time, or a high incidence of repair.

Under the new Priority V, NTIA has incorporated former Priorities IV without any change in the former wording. NTIA has also deleted former Priority II (Activation or Expansion of Telecommunications Facilities for Significantly Different Additional Services) as a separate Priority. Rather, NTIA will consider applications proposing to plan or construct significantly different additional services under the category of "Other". NTIA will retain the discretion to fund

applications in this category without regard to its consideration of applications within other Priorities. Toward this end, NTIA is amending the category of "Other" to include meritorious projects which do not fall within any of the categories described above.

During prior funding cycles, NTIA had evaluated all applications (new and deferred) and made all grant awards concurrently. In order to speed up the grant process and eliminate unnecessary duplication of staff effort, NTIA will no longer perform detailed evaluations of applications which the Agency has already evaluated and deferred in the prior year's grant cycle. Rather, NTIA will retain the evaluations of applications performed by the staff during the prior year and make awards on the basis of that evaluation. (If the applicant has substantially amended its deferred application, NTIA will treat the application as a new application and perform a new evaluation of the application.)

Alternative services in public telecommunications fall under the category of "Other" in the new rules and regulations. Last year, alternative service projects were thought necessary and fell into Priority 2. Isn't the category of alternative service projects where the majority of applications submitted for minorites and women's projects fall?

No, the category of alternative service projects is not where the majority of applications submitted for minorities' and women's projects fall. In 1981, of 161 awarded grants, only 14 minorities and women's projects fell into Priority 2: 6 for cable, 2 for TV, 4 for radio, 1 for Instructional Television Fixed Services and 1 for a Subsidiary Communications Authority receiver for print handicapped women.

NTIA has deleted the old Priority 2 as a separate priority because many elements of a Priority 2 application also fell into other categories. In 1981, 53 minorities' and women's applications fell into Priority 1. The new Priority 3 also contains combined elements of the former Priority 2 and Priority 3.

The funding of a minority or women's application is often determined by the awarding of "special consideration" points and not necessarily by its priority.

The proposed new rules and regulations change the definition of "Other". NTIA will retain the discretion to fund applications in this category without regard to its consideration of applications within other Priorities.

Since no applications which fell into the category of "Other" in FY 1981 were funded, will the same occur in FY 1982, and therefore the majority of minorities and women's projects categorically dismissed without consideration? If not, what will be the basis for determining how many and which "Other" projects will be funded?

In previous years "Other" cases for funding were to be considered only after all approvable applications were funded and appropriated funds remained. Traditionally the program rarely had many applications in this category (fewer than five a grant cycle). After careful consideration, NTIA changed the definition of "Other". Meritorious applications can now be funded without consideration of applications within other priorities.

We cannot anticipate how many applications will occur in this new "Other" category. However, since the overwhelming number of applications from women and minorities never fell into Priority 2 we would not anticipate a great increase in the number of applications falling into the new "Other" category, additionally their receiving a grant would not be contingent upon funds remaining, but solely upon the meritorious nature of the applications.

Questions Submitted by Senator Ernest F. Hollings

STUDY OF INTERNATIONAL FLOW OF TELECOMMUNICATIONS AND INFORMATION SERVICES

What benefits do you expect to result from your proposed contract study aimed at developing a methodology to quantify the international flow of telecommunications and information services and assessing their economic impact?

The proposed $300,000 contract study will allow NTIA to fund a one-time effort to develop a methodology to quantify international trade in telecommunications and information services. This will enable policymakers to assess the impact of this trade on the U.S. economy.

Great concern has developed about the position of U.S. telecommunications and information industries in world markets. Although it is likely that our stake in these markets is growing, no reliable statistical method has been devised to measure exports and imports of services in the telecommunications and information sector. Incomplete, and at times conflicting, statistics are all that are currently available. Policymakers are, therefore, not able to properly assess the impact of telecommunications and information services trade on the overall balance of payments, or to determine the effects of policies of other governments on the competitive position of the U.S. telecommunications and information industries. It is important that some attention be given to devising reliable and fairly comprehensive data. U.S. policy formulation in this strategic area should be based on the best possible information, especially at a time when foreign interest in these industries is intensifying.

Once a methodology has been established do you plan to monitor this flow on a regular basis?

Once the methodology for gathering the relevant data has been developed, NTIA will gather a preliminary set of statistics which will be tested for validity. However, NTIA does not plan to collect statistics on a continuing basis.

COMSAT OVERSIGHT

Regarding COMSAT oversight, you state that you will be able to prepare policy analyses for " a limited number of issues." Is the oversight which you, along with the FCC and State Department pro-

vide, adequate to ensure that COMSAT effectively represents U.S. interests in INTELSAT?

Yes. While we believe that the oversight of COMSAT has been adequate to date, some problems of the past and a continuing increase in COMSAT participation in competitive activities separate from their legislative mandate has caused NTIA to suggest modifications to the 1962 Communications Satellite Act. Specifically, NTIA has suggested that the instruction provisions of the 1978 INMARSAT Act be incorporated into the 1962 Act.

1983 REGION 2 BROADCASTING SATELLITE CONFERENCE

How do your efforts to provide technical support for the 1983 Region 2 Broadcasting Satellite Conference relate to those being undertaken by the FCC?

NTIA is conducting extensive technical analysis aimed at identifying flexible planning approaches to meet near and long term U.S. user requirements. This involves design, development and testing of sophisticated computer-aided analytical models to test and validate various planning strategies. This effort is being undertaken in close coordination with the FCC through NTIA's Interdepartment Radio Advisory Committee and complements the work being done by the FCC and its advisory committee. The FCC through its public inquiry process is identifying U.S. system requirements, technical planning parameters for both space and earth segments, and other related activities pertinent to developing U.S. proposals for the 1983 BSS RARC.

LESSER DEVELOPED COUNTRY TRAINING PROGRAM

What has become of the Lesser Developed Country training program you mentioned in last year's budget submission? How well has it worked in increasing understanding of the logic behind U.S. positions at international telecommunications conferences?

The Lesser Developed Country training program was eliminated as part of the March 1981 Revisions to the 1982 Budget. With FY 1981 funds, NTIA sponsored a"Seminar on Satellite Communications in a Developing World" from October 12, 1981 through November 6, 1981. Fifteen individuals in senior policy and implementation positions were invited from Africa, Asia, Latin America and the Pacific area to discuss American and international experiences in satellite applications for the delivery of public services, and to share perspectives on the present and future uses of telecommunications technology for national development. The seminar involved study sessions, lectures, discussions, site visits to governmental and private sector satellite facilities throughout the United States, hands on participation in operational systems, access to leading U.S. institutions and individuals who are active in both domestic and international satellite applications, and numerous optional appointments to fit the individual professional and program interests of each participant.

Integral parts of this month long seminar included discussions of the essential elements of U.S. spectrum management, descriptions of the U.S. coordination and management of Federal satellite systems and the system review process, and a description of domestic and international satellite systems, including WARC preparations, orbit and spectrum utilization, and the future outlook for satellite applications. All participating countries (India, Indonesia, Mexico, Nigeria, and the Philippines) are currently using communica-

tion satellites or there is a strong potential for their use in the near future. While specific examples are not available at this time, it is anticipated that increased understanding of U.S. positions at international conferences will be one of the significant products of this seminar.

SATELLITE INDUSTRY SERVING PUBLIC SERVICE USERS

What is the rationale behind your statement that the burgeoning satellite industry can be expected to serve the public service market, given the economic problems which generally surround the offering of public goods by private firms and the relative scarcity of satellite transponder space which currently exists? What specific evidence do you have that the market is being, or will be, adequately served?

NTIA believes that a strong, growing and competitive satellite industry is the best assurance that the public service market throughout the U.S. will be able to access the economic advantages offered by satellite communications. NTIA's satellite program was aimed primarily at the infrequent, widely dispersed, and low volume users within the public service community. One of the services desired by this community is teleconferencing. In January 1982, AT&T filed tariff requests for its 42-city network, and last month Holiday Inn's HiNet teleconferencing network announced a price reduction. The growing number of satellite ground stations, currently 6,000 receive only and 1,100 receive/transmit stations, continues to improve the access opportunities of dispersed public service users. Public broadcasting is a further example of the private sector satellite community economically serving the public sector.

As to the relative scarcity of satellite transponders, NTIA has strongly supported the Federal Communications Commission's proposal to reduce the orbital arc spacing for domestic communications satellites to two degrees (4/6 GHz) and three degrees (12/14 GHz). Together with increasing the orbital arc allocation itself, the problems of transponder scarcity will be reduced.

NTIA believes these are just a few of many strong indicators of a healthy industry requiring no further Federal subsidy.

TECHNICAL INPUT TO DEPARTMENT OF DEFENSE

Why are you discontinuing your provision of technical inputs to the Department of Defense if, as you say, they are "critical to the effectiveness of classified national telecommunications plans?"

NTIA will continue to provide for its executive agent function under PD-24 in FY 1983. In the technical support area, however, NTIA will not direct appropriated funds for this portion of the effort. Rather, the needs of the Defense community for critical protection methodologies and information will be met through reimbursable work performed by the Institute for Telecommunications Sciences (ITS), an office within NTIA.

NONIONIZING RADIATION

Why are you withdrawing from your role as coordinator of the Federal research effort to determine possible biological effects on persons of nonionizing radiation emitted by telecommunications systems? Who will assume this role?

There are several agencies which perform research on nonionizing radiation. Since NTIA is primarily a policy making organization, and the biological effects of nonionizing radiation is a health related issue, NTIA believes that the coordination of Federal research in this area would be more appropriately performed by one of those agencies which is involved in this research.

PUBLIC TELECOMMUNICATIONS FACILITIES GRANT PROGRAM

In your FY 1982 budget submission you indicated that about 90 per cent of the U.S. population received public television service and about 69 percent received public radio service. What is the likelihood that the remaining U.S. population will receive service if your public telecommunications facilities grants program is discontinued?

When the projects which we have funded are completed, public television service should be available to about 94 percent of the people. In the case of public radio, a coverage of about 74 percent will have been achieved.

With the Public Telecommunications Facilities Program and all other Federally supported public telecommunications funding agencies, the Federal dollar contribution to all of public broadcasting remains at only 25 percent of public broadcasting's total budget outlay.

There is a great likelihood that alternative sources of funding can be garnered if local coalitions indicate the willingness and energy to support a locally based public radio station or a translator station. These alternative sources can include corporate funding, state and local funds, station underwriting, and greater fund-raising initiatives.

Therefore, NTIA believes that the remainder of the unserved U.S. population that feels the need for public radio in their community will receive it, with or without PTFP funds.

FY 1983 BUDGET CEILING

Do you expect to be able to reach your proposed FY 1983 budget ceiling through attrition or will a reduction-in-force be necessary?

At this time NTIA does not plan any reductions-in-force or furloughs. It is expected that lower personnel ceilings will be met through attrition.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

WEDNESDAY, MARCH 24, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room S–146, the Capitol, Hon. Lowell P. Weicker (chairman) presiding.

Present: Senator Weicker.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

STATEMENT OF ROBERT E. WARD, CHAIRMAN

ACCOMPANIED BY:
RICHARD A. ERICSON, JR., EXECUTIVE DIRECTOR
KAREN S. JACKSON, BUDGET OFFICER, GSA

BUDGET REQUEST

Senator WEICKER. Our next request is that of the Japan-United States Friendship Commission. The amount requested is $1,700,000 in earnings on the dollar trust fund, plus an amount equivalent to $1,200,000 in foreign currency earnings on the Japanese yen fund. The total request is $58,000 less than the amount for fiscal year 1982.

Appearing on behalf of this request is Dr. Robert E. Ward. We will be glad to have your statement.

Mr. WARD. I would like to give you a copy of the annual report and just add a few words to the statement that has already been submitted. I have with me today Ambassador Ericson who is the new Executive Director. Also accompanying me is Ms. Karen Jackson, Budget Officer, General Services Administration and former Executive Director Frank Tenny.

In addition to what has been set forth in the record, I want to note a couple of activities. These relate to, primarily, difficulties we have been having. It does seem to us from the beginning there are a few things that could be done that would be useful. I mention just a few of them. One has to do with the fact the Japanese, before they could make a successful onslaught on the American market, have prepared their people very carefully for a very shrewd campaign. They send their people to

businesses in the United States; they send them to our better business schools; they familiarize them with American business, and we do practically nothing in response. It seems to us a foolish omission. We have been trying to develop programs that would do something to help American businesses on the Japanese market. We have done this in a couple of ways.

We have set out to bring together a number of leading economists in the country, and working with them and with representatives of graduate schools of business have developed a set of teaching modules—tools which can be inserted into existing courses on marketing, on production, on finance, things of this sort. We are having it printed up in case study form, and we are distributing it through the National Association of Graduate Schools of Business and the modules are beginning to be used rather extensively.

It is rather surprising to us that it has taken so long. The schools are worried enough now to be receptive to this sort of material.

We have recently been meeting with the seven leading business schools in the country and have asked them what they thought might be done that would be helpful along these lines.

Beyond this, we have also thought that something could be done by way of research on campus that would help with very complex problems, such as the semiconductor problem which obviously is going to be of enormous importance, particularly in the northeast and California. The competition is well underway, yet several years ago we saw this coming and pulled together a group of specialists from both Japan and the United States, to hold a meeting of authorities—electrical engineers, scientists, and economists—who are worried about the larger aspects of the competition. We have had them do a joint study which was completed in the course of this year, then brought to Washington, and presented to a group of Congressmen and their aides. We went to New York and set it forth before a group of businessmen, and then we had a major meeting on it.

We think this type of thing is obviously not going to solve the problems between the two countries, but that campus-based research can cut out much of the undergrowth that underlies these problems before formal negotiations begin. We think in this way we can be of practical assistance.

TWO MILLION DOLLAR GIFT FROM JAPAN

Senator WEICKER. Thank you very much. How do you intend to use the $2 million gift from Japan? What are your plans for that?

Mr. WARD. In support of what we call our regional program, and here the basic thought was that only New York was well serviced in terms of an organization that can present in an adequate fashion both sides of any difficulties between Japan and the United States. There is no comparable organization anywhere else in the United States that does this with a degree of efficiency similar to that of the Japan Society in New York.

We have, therefore, identified a number of metropolitan regions where there is a substantial Japanese presence. In Atlanta in the southeast, in Boston in the northeast, in Chicago, in Dallas, in Houston, Seattle, Portland, San Francisco, and Los Angeles. These are the major places at present. We are putting some of the Commission funds into establishing similar organizations in these areas, and for this purpose we have received this $2 million from the Japanese Government which is to be spent at the rate of $400,000 a year for 5 years. This is what we are trying to do with the money.

DONATIONS FROM U.S. CORPORATIONS

Senator WEICKER. Have you received similar donations from any U.S. corporations?

Mr. WARD. Not that I am aware of. Am I right in that?

Mr. ERICSON. Yes; obviously, many of the programs we supported are also funded by U.S. corporations. For example, we have the Japan society program. We put funds into it, and U.S. corporations do also, but they do not give the money to us.

Mr. WARD. It is apparent to us these organizations won't succeed unless they get support of the business community in the areas we are concerned with, and we set a 5-year target for self-sufficiency. We asked them to state the targets that represent self-sufficiency. I think we will probably succeed in a number of cases.

Senator WEICKER. Fine. I have no further questions. I appreciate your appearance here this morning. Thank you very much.

Mr. WARD. Thank you, Senator.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

STATEMENT OF HON. DANTE B. FASCELL, CHAIRMAN

ACCOMPANIED BY:

R. SPENCER OLIVER, STAFF DIRECTOR
MICHAEL PACKARD, DEPUTY STAFF DIRECTOR
DEBORAH M. BURNS, BUDGET OFFICER

PREPARED STATEMENT

Senator WEICKER. The next request is that of the Commission on Security and Cooperation in Europe for salaries and expenses as authorized by Public Law 94-304, $550,000 to remain available until expended. The amount available for official reception and representation purposes shall not exceed $6,000. The amount requested is $550,000 plus an unobligated balance of $35,000. This request is an increase over fiscal year 1982 of $8,000.

Appearing on behalf of this request is Congressman Dante Fascell, the Chairman. Congressman, why don't you go ahead and introduce your colleagues here. You can come at this anyway you want.

Mr. FASCELL. Thank you, Mr. Chairman. We have a statement of the Cochairman, Senator Dole. I submit that for the record.

Senator WEICKER. Without objection.

[The statement follows:]

STATEMENT OF SENATOR ROBERT DOLE

As Cochairman of the Commission on Security and Cooperation in Europe, I would like to express my support for the activities and achievements of the Commission and its staff.

Since its creation in 1976, the Commission has successfully carried out its mandate to monitor and encourage compliance with the provisions of the Helsinki Final Act, particularly in the human rights areas.

The Commission has achieved these goals in several ways. It investigates and publicizes human rights violations through public hearings. Last summer, for example, the Commission held two hearings. The first was a joint hearing with the House Foreign Affairs Committee, Subcommittee on Human Rights and International Organizations, on the Soviet invasion of Afghanistan and the other dealt with religious and national dissent in Lithuania. On November 16, the Commission held a hearing on the fifth anniversary of the Ukrainian Helsinki group and on December 28, 1981, after the adjournment of the third phase of the Madrid meeting and after the Soviet crackdown in Poland, the Commission held an emergency hearing on the Polish crisis and its effects on the future of Madrid and the CSCE process. At this hearing, we heard testimony from former Polish Ambassador to Japan Zdzislaw Rurarz who had just defected to the United States after the imposition of martial law.

A large and significant share of the Commission's resources during the past fiscal year have been devoted to the second followup conference on the Helsinki accords held in Madrid. The Commission has made a unique contribution to the U.S. delega-

tion to the CSCE review meetings—both at Belgrade and Madrid—by facilitating the participation of Members of Congress, representatives of interested nongovernmental organizations and public members appointed by the President. Such participation is unique to the American delegation; it assures that the views expressed by our delegation truly reflect the sentiments of large segments of the American public. Our involvement with this meeting is expected to resume during fiscal year 1983 when the final phase of the Madrid meeting begins in Madrid on November 9.

One sign of the Commission's success in focusing attention on human rights violations has been the harsh criticism of the Commission and its staff which has appeared from time to time in the Communist media. The sarcastic tone of these comments indicates that the Commission's efforts have struck a sensitive nerve.

In addition to monitoring human rights problems, the Commission has contributed to efforts to improve the state of East-West relations through the CSCE process. The Commission staff serve in many different functions at Madrid including that of deputy chairman of the delegation, and supply the majority of personnel during much of the conference. The Commission has provided much of the expertise available on human rights issues and embodies "the corporate memory" for the United States at these international meetings. I feel it is important that the Commission have the resources to participate in these and future meetings and to continue to fulfill the duties mandated to it by the Congress.

INTRODUCTION OF ASSOCIATES

Mr. FASCELL. We have our Staff Director, Spencer Oliver, our Deputy Staff Director, Mike Packard, and our Budget Officer, Deborah Burns. We will answer any question you would like.

Basically, you have already pointed out the increase is minor. The number of personnel is the same as last year. We are contemplating no increases, no additional slots and the difference is primarily very small because we are contemplating a possible change of present word processing equipment. We are going to have to go to House information system for any additional equipment, and we are contemplating that, plus some very normal inflationary factors across the board on the other items of our expense account.

That is basically it. We run a very tight shop, as you know. We have been busy this year primarily because of the Madrid meeting which seems to be going on forever. It just adjourned on March 12 after 17 months of negotiations.

As you know, we are integrated into the U.S. delegation as part of the conference, and we spent a great deal of time giving support to the U.S. delegation and also being on the ground, traveling back and forth and doing all the things necessary to support the delegation.

That meeting is now recessed, and we are devoting ourselves to getting ready for the next phase, phase V, which will begin on November 9 of this year.

In addition to doing that, we do all our other things. We keep up with casework that comes from Members of Congress, from other countries, from individuals who are concerned about people having trouble. Most of our cases, not surprisingly, come out of the Soviet Union, but we have some from Czechoslovakia, Romania, and Poland. We maintain a present file of around 5,000, which is not the ultimate or end-all. There are billions of people who are in trouble, literally. But we have established great credibility on our pursuit and followup with respect to cases in which the U.S. Government is involved or interested or should

be involved or interested. Therefore, we provide that kind of service to the Members of the Congress which so far have proven to be very useful.

In addition to that, as you know, we maintain direct contact with all the liaison groups in this country and all the other groups who are interested in the whole Helsinki process, especially the human rights aspect because that's our charter.

So, we stay plenty busy with a small staff, but we have a very capable staff with good language capability, well-known and the publications that we print are well received; they are known all around the world. We do a lot of translation, Mr. Chairman, out of Russian and out of other languages. We are a disseminating center without becoming obnoxious or without running the biggest printer in the world.

We have been selective and totally useful and try to spend the very little money given to us in a very useful way.

PREPARED STATEMENT

We will be glad to answer any questions for you. I have a fully prepared justification which I would like to submit for the record and be glad to answer any questions you have on or off the record.

[The statement follows:]

STATEMENT OF DANTE B. FASCELL

I am appearing before you today in my capacity as Chairman of the Commission on Security and Cooperation in Europe to discuss the requested appropriations for Commission activities during Fiscal Year 1983.

Public Law 94-304 created the Commission and authorized an appropriation of $350,000 for each fiscal year to remain available until expended. The Foreign Relations Act of 1979 (Public Law 95-426) amended the enacting legislation to increase the amount appropriated to $550,000. Our budget request for Fiscal Year 1983 is $550,000 for an operating budget of $585,000. A summary of each fiscal year's appropriation is attached as Appendix I.

Before describing the details of our budget estimate, I would like first to review the Commission's background and activities.

Background of the Commission

The Commission is an independent agency of the United States Government made up of six Members of the House of Representatives, six Members from the Senate, and three representatives of the Executive Branch appointed by the President, one each from the Departments of State, Commerce and Defense, for a total of fifteen "Commissioners."

Created to review compliance with the provisions of the Helsinki Final Act -- which was signed by President Ford in August of 1975 along with 34 other countries -- the "Helsinki Commission" was signed into law on June 3, 1976 with the mandate to monitor compliance of all the signatories, including the United States', in the areas of human rights, religious liberty, reunification of families, treatment of minority groups, cooperation in the field of cultural and educational exchange and cooperation in trade and economic matters. Also covered is the exchange of scientific and technological information, provisions for the notification of military maneuvers and invitation of observers to military maneuvers.

The Madrid Meeting

As we discussed during last year's appropriations hearings, one of the mandates of the Helsinki Final Act calls for periodic follow-up review conferences. The first review conference began on October 4, 1977 in Belgrade, Yugoslavia, and lasted until March 9, 1978. The second review conference, which is being held in Madrid, Spain, held a preparatory conference in September 1980 with the meeting officially opening on November 11, 1980. Phase III of the Madrid Review Meeting came to an uneasy and inconclusive end on Friday, December 18, 1981, after eight weeks of negotiations on a concluding document. The brutal imposition of martial law and subsequent suspension of civil rights in Poland occurred just as this segment of the meeting was entering its final week and, thus, dashed all hope of reaching agreement in 1981. It was agreed upon at that time to reconvene for Phase IV on February 9, 1982.

The fourth phase of the 17-month long Madrid Meeting opened in plenary session on February 9 with the Foreign Ministers of six NATO countries, including Secretary of State Haig, attacking the imposition of martial law in Poland as a violation of the fundamental provisions of the Final Act and placing the blame for the repression in Poland squarely on the Soviet Union. The importance of the Polish crisis for the CSCE process was graphically shown in the fact that this marked the first occasion since the signing of the Final Act itself in 1975 that the Foreign Ministers of the Western alliance have attended a CSCE session.

From the beginning of the current session, the United States Representative in Madrid, Amb. Max Kampelman -- who had testified before the Commission at its hearing on the Polish Crisis and its Effects on the Future of CSCE on December 28 -- has been delivering hard-hitting attacks on the Soviet Union for their blatant violations of various aspects the human rights and human contacts provisions of the Final Act in addition to the West's condemnation of the gross violations being perpetrated in Poland. We, and our allies in the

West, continued to discuss Poland in subsequent sessions, and resolutely refused to return to "business-as-usual" negotiations on a concluding document. On March 12 the meeting recessed with agreement to meet again on November 9, 1982 to try to reach agreement on a concluding document.

Preparations for, and participation in the Madrid Meeting, requires a significant portion of the Commission's time and resources. For example, Members of Congress who serve on the Commission are also members of the U.S. delegation to Madrid. A group of Members of Congress traveled to Madrid in November, 1980 to participate in the opening sessions. Since that time, various members of Congress and representatives from their staffs have been to Madrid and have participated in the different working groups and have been briefed by the Commission staff on past, present and future negotiations. Commission staff members serve in many important positions on the U.S. delegation including the Staff Director who is the Deputy Chairmen of the U.S. delegation, second in command after Amb. Kampelman. Most of the staff have participated in the work of the conference at one time or another and have contributed significantly toward achievement of U.S. objectives in the various working groups. In addition, the Commission serves as Congressional liaison for the delegation and has been the delegation's principal point of liaison for the many private U.S. organizations having a strong interest in the CSCE process.

As at the Belgrade meeting in 1977-78, the U.S. delegation is a totally unified team consisting of Commission members and staff as well as State Department and other Executive Branch personnel and distinguished public members. The composition of the delegation reflected the diversity of interests involved and the importance different groups attached to the Madrid Meeting. This is the second in a series of review meetings of the type envisioned by the Final Act and, thus, a significant step in continuing the CSCE process. Its goals are to strengthen that process by conducting a thorough exchange of views on implementation of the Final Act, by trying to agree on a balanced mix of new proposals in all areas of the Final Act and by agreeing on the date and place of another similar review meeting.

The various areas of the Final Act being discussed at Madrid were broken down into "working groups." In two of the five working groups, Mediterranean Cooperation and Follow-Up, Commission staff members were in charge, with back-up provided both by Commission staff and State Department officers. The Commission staff also played an active and visible role in the other four working groups, especially in the Basket III group on Cooperation in Humanitarian and related fields, where it supplied all the support staff. The Commission staff was also in charge of the review of Principle VII, the human rights principle, in Basket I. The Commission's work in the delegation fell largely into the following categories:

(a) Committee Work: Prepared and delivered speeches, replies and answers to questions or criticisms, chaired meetings, wrote daily and weekly summary cables to Washington, maintained close contact with all delegates, attended and participated in NATO caucuses, planned tactics and strategies and drafted new proposals.

(b) Plenary Work: Advised and prepared general and specific strategies, wrote speeches, assisted the head of the delegation and participated in negotiating groups.

(c) Special Projects: Drafted briefing papers, summaries, cables, newspaper articles, analyses, resolutions, talking points and most correspondence.

(d) Press Relations: Maintained close and continuous contact with members of the press at all stages of the meeting. Commission members held a heavily-attended press conference while in Madrid. Staff members assisted in press briefings and press releases of the U.S. delegation and wrote numerous press articles about the Madrid Meeting.

(e) Congressional and Public Visitors: Took full responsibility for briefing and scheduling the many Members of Congress and representatives of private organizations who visited Madrid during the meet-

ing. During the review phase of the meeting, the Commission staff members of the delegation organized and operated a public relations office for the delegation, which helped visiting private citizens and public members of the delegation keep apprised of developments at the meeting and made available copies of speeches and other public material related to the meeting.

(f) Administrative: Provided a significant part of the administrative and secretarial support for the delegation throughout the conference.

Following the Madrid meeting, the Commission intends to initiate a series of reports, hearings, consultations and discussions on the results and significance of the Madrid review. The first of these will be a detailed report and appraisal of the Madrid Follow-up meeting to be released shortly after the conclusion of the meeting. In the meantime, the staff has prepared a series of interim reports on various phases of the meeting. The Commission held a public hearing with Under-Secretary Eagleburger and the U.S. delegation chairman, Ambassador Max M. Kampelman; and a series of briefings for Commissioners, Congressional staffers and non-governmental organizations.

Commission Staff -- Background and Responsibilities

As in previous years, the Commission is authorized 14 permanent fulltime positions. At present, all available positions on the Commission are filled. These consist of 10 professional staff and 4 clerical/administrative and part time positions.

At the end of the last fiscal year, there were 4 vacancies, 3 staff assistants and one receptionist/secretarial slot which were filled to the satisfaction of myself, Senator Dole, and the other members of the Commission's personnel committee. A new high level position, that of Deputy Staff Director, was created to accommodate a member of Senator Dole's staff.

Following are background information and job responsibilities for members of the staff. In addition to the 14 appropriated positions, the Commission is authorized to hire summer interns and, if necessary, interns to help during the school year should such assistance be required.

R. Spencer Oliver
Staff Director and General Counsel

Born on November 1, 1937, received his A.B. from Texas Christian University in government and politics and his J.D. at George Washington University. Member of the D.C. Bar.

Has been serving as Staff Director and General Counsel of the Commission since its beginning in late 1976. Served as Chief Counsel of the U.S. delegation to the Belgrade Review Meeting 1977-78 and was Co-Chairman of the CSCE Experts Meeting on Peaceful Settlement of Disputes held in Montreux, Switzerland in 1979. Currently acting as Deputy Chairman of the U.S. delegation to the second CSCE review conference being held in Madrid, Spain. As Staff Director, he is the central contact with Commissioners and high-level personnel at Department of State and other Government agencies. Responsible for office policy and overall staff direction, provides guidance in carrying out projects and issuing reports and coordination of all Commission activities.

Michael J. Packard
Deputy Staff Director

Graduated from the U.S. Naval Academy with a B.S. in naval science and military history and received a Master's Degree in history from Duke University. He is a Lieutenant-Commander in naval reserve intelligence. While on active duty served in destroyers in Vietnam, as naval liaison to the 12th Marine Artillery Regiment in the Pacific, and as Deputy Public Affairs Officer for the 9th Naval District (Midwest).

Joined the staff of Senator Robert Dole, Commission Co-chairman, as legislative assistant for foreign affairs and defense issues, later becoming senior legislative assistant. Responsibilities included the

Senator's activities on SALT II, the Law of the Sea and human rights, and he attended negotiations in Geneva and Vienna.

Duties include assisting in direction of staff with overall responsibility for military security questions (CBMs, CDE) and liaison with Defense Department. Started with the Commission in September of 1981 and subsequently participated in the Madrid CSCE meeting.

Samuel G. Wise
Deputy Staff Director

Came to the Commission in October of 1977 on loan from the Department of State. A Foreign Service Political Officer, he has served in the Soviet Union, Czechoslovakia and Italy and was Deputy Director for East-West exchanges at State prior to his assignment with the Commission. Participated in the Belgrade, Montreux, Valletta and Madrid CSCE meetings. Retired from the Foreign Service in December of 1981 and was put on the Commission payroll on January 1, 1982. His main responsibilities are assisting in staff direction and coordination with private groups and government agencies with regard to U.S. compliance with the Helsinki Accords. Currently back-up for Madrid delegation with responsibility for Mediterranean issues and the Preamble. Overall Liaison with State Department.

He is a graduate of the University of Virginia and Columbia University where he attended the Russian Institute and received a Masters of International Affairs degree. He has language fluency in Russian, French and Italian and rudimentary knowledge of Czech.

Staff Assistants

Christopher Brescia -- Received a B.A. in International Affairs at the Johns Hopkins University in 1975 and an M.A. from the Johns Hopkins School of Advanced International Studies in 1977. At the Commission, he concentrates on all matters covered under Basket II (economic, scientific, technological and commercial cooperation) of the Helsinki Final Act. Liaison with Commerce Department. Country responsibility for Hungary. Started with the Commission in October of 1979.

Catherine Cosman -- Received her B.A. from Grinnell College in 1967 and an M.A. in Slavic languages and literature from Brown University in 1969. Fulbright Fellow, East European Institute, Free University of Berlin 1973-74; IREX Fellow, Institute of Cinematography, Moscow 1974-75. Country responsibility includes religious liberty in the USSR and all matters dealing with the Baltic States and the GDR. Overall responsibility for dissent in East Europe and USSR. Fluent in Russian and German, translates, edits and compiles human rights documents from the USSR. Has been with the Commission since its origin in late 1976.

Lynne Davidson -- B.S. from Georgetown School of Foreign Service in 1975 and is working toward a M.A. in Russian Area Studies. Was a participant twice in the Council on International Educational Exchange's language program at Leningrad State University. Speaks Russian and Spanish and has had extensive experience translating scientific and other texts from Russian into English, particulary during the Madrid Conference where she translated the written texts of the Soviet speeches dealing with security and disarmament in Europe. Serves as case officer for Romania and follows human rights developments in Poland for the Commission. Liaison with U.S. Immigration and Naturalization Service. With regard to domestic compliance, she follows issues concerning political prisoners and American Indians. Started with the Commission May of 1977 as a summer intern and was later hired on as a full time staffer.

Orest Deychakiwsky -- Started with the Commission in November of 1981, is in charge of all emigration casework and trains and supervises part time and summer interns. Fluent in Ukrainian, keeps track of developments in that area and is a contributing editor to Smoloskyp, a Ukrainian human rights quarterly. Received his M.A. from Georgetown in Internationl Relations and his B.A. from Notre Dame.

Meg Donovan -- Has also been with the Commission since the beginning, is the Commission's chief liaison with NGO's and is coordinator with Congressional offices on human rights issues. Overall responsibility

for Basket III (human contacts and family reunification questions) and emigration questions dealing with the USSR. With reference to domestic compliance, follows the International Covenants on Human Rights and the status of women in the U.S. Attended Emmanuel College in Boston and was the Administrative Assistant for the National Conference on Soviet Jewry 1975-76.

John Finerty -- Received his B.A. from the University of Tennessee and his M.A. from S.U.N.Y in Russian Studies. Fluent in Russian. Started with the Commission in November of 1981, has main responsibility for Russian translations; assists in preparation of USSR human rights documents and reports; and maintains files on USSR.

Martin Sletzinger -- Has a Ph.D in Soviet and East European studies and a M.A. in Soviet Studies from Harvard University. Is a highly qualified political analyst of the USSR and Eastern Europe. Fluent in Russian and Serbo-Croation, he was a Fulbright Fellow in Belgrade 1972-73. Joined the Commission staff in 1976 and he has primary responsibility for CSCE follow-up, military security and is an expert on CSCE procedures. Served on the delegations of the Belgrade and Madrid Meetings, and the Montreux and Valletta Experts Meetings. He monitors Bulgarian, Czechoslovak and Yugoslav compliance with the Final Act and follows Charter 77 developments in Czechoslovakia with overall responsibility for Soviet/East European research. Follows instances of alleged violation of the Helsinki Accords in non-Communist states (i.e. FRG, Turkey and the United Kingdom).

Part Time Employees

Yale Richmond -- A retired Foreign Service Information Officer, came to the Commission in March of 1980 as a part time Senior Staff Consultant. Deals with issues concerning cultural, educational and scientific exchanges and information. Received a B.S. in 1943 from Boston College and a M.A. from Columbia University in 1957. In the interim, he attended Syracuse University where he earned a Bachelor of Electrical Engineering in 1947. Before joining the Commission he was Deputy Assistant Director for Europe at the U.S. International Communication Agency. His prior assignments at the State Department include Director, Office of Soviet and Eastern European Programs and Director, Office of International Visitor Programs, both in the Bureau of Educational and Cultural Affairs.

Leslie Farrell -- Has been with the Commission since January of 1980. Clips and files newspaper and magazine articles about CSCE from daily and weekly publications.

Administrative/Clerical Staff

Barbara Blackburn -- Administrative Assistant. Updates mailing and family reunification case lists which are on the word processing machine. Imprest fund officer and Commission hearing coordinator dealing with HIS and GPO. Handles travel arrangements for staff -- both domestic and international -- and assists in typing of reports. Has an Associate of Arts degree in court reporting. Has been with the Commission since October of 1979.

Deborah Burns -- Office Manager. Prepares annual budget request and keeps books on all expenditures for the Fiscal Year. Coordinates with GAC, other government offices and is Congressional liaison for all matters dealing with appropriations and expenditures for the Commission. Oversees clerical work and all work done on word processor. Prepares all paperwork for new employees and prepares vouchers and purchase orders for all office equipment and services. Has been with the Commission since July of 1978.

Cynthia Willett -- Secretary/Receptionist. Started with the Commission this past January. Does all routine office typing and assists with reports. Answers phones and routes mail.

Intern

Patricia Lynn Van Housen -- Worked as an intern in the summer of 1981 before going to Poland as a summer student. Will be with the Commission until June 1982. Assists with casework and translates German-

language letters. Graduated from the University of Notre Dame in December 1981 and attended the University of Innsbruck from 1978-79. Plans on going to graduate school in September.

Semester Students

Roberta Hood -- A Washington Semester Student from the American University Program, Roberta is from Ohio Northern University and will graduate in May 1983. Assists two days a week with casework.

Charles Perkins -- A student from American University School of International Service, will graduate in May 1983 also. Knowledge of German. Assists in casework. Works 10 hours a week.

Employees on Loan from Other Government Agencies

Herbert Moller -- Foreign Service Consular Officer from State Department. Is working on immigration and emigration policies of the Helsinki signatory countries, including the United States, for a future Commission report. Started with the Commission in November 1981 and is assigned for one year.

John Sandstrom -- Press and Information Officer for the Commission on loan from the International Communication Agency since November 1981. In addition to editing press releases, liaison with Washington press personnel and preparing Commission press conferences and briefings, writes and edits the bimonthly CSCE Digest.

Casework

One of the major functions of the Commission staff is their work on the human rights and human contacts portion of the Final Act. The number of political prisoners, family reunification and emigration cases is steadily increasing, more so since the Madrid Review Meeting has been in session. At present, the number of such cases in our files is about 5,000 -- most of which come from the Soviet Union, followed by Romania, Czechoslovakia and Poland. Some of these cases are submitted to us through Members of Congress, although most come from family members and a few are sent to the Commission by outside organizations who have heard of the good work performed here. We keep updated, detailed information on people who are trying to be reunited with their families -- some of whom have been waiting years and have been refused exit visas 10 times or more. What we try to do is determine whether or not, for example, the U.S. Government has made an effort in the matter and we always try to follow up the case with the government concerned because, basically, it is a government-to-government process. We also advise Members of Congress and some committees on human rights cases and issues. The Commission's services are available to serve the needs of the Congress and their constituents.

A list of unresolved Romanian cases was presented in January to the American Embassy in Bucharest for updating and a Presentation List was also sent to the Romanian Embassy in Washington in which we requested that the details of the individual cases be given, i.e. if they have been "resolved", when and how, and if not, why not. In addition, the Staff Director carried to Madrid with him a large report consisting of over 2,500 Soviet unresolved cases which are on the Commission's files.

All these cases are contained in the word processor and are accessed by a program which was designed by the House Information System. Unfortunately, our present system may not be feasible in the future due to financial problems of the parent operating company. We will be awaiting the outcome of their negotiations and will be looking into other systems which are compatible with our needs and wherein the material and programs already contained in our equipment can be transferred, hopefully, for a minimal amount of time and money.

Travel

With so much of the Commission's time being taken up by the meeting in Madrid, it is expected that domestic travel by members of the staff will be slightly less than normal until the meeting either

ends in December or recesses to some future date. Many Commissioners and staff members are asked to speak before various ethnic organizations and other interested groups which request the presence of the Commission at their functions for briefings and updates on Madrid and other CSCE matters of importance to them. Should a Commissioner not be available to travel because of the constraints on his time, the Staff Director or another staff member will try to fill in. It is expected that, at the conclusion of the Madrid Meeting -- successful or otherwise -- the Commission's presence will be requested from the many Jewish organizations and other interested ethnic groups for discussions of the effects of the meeting and the future of CSCE.

Most of the Commission's travel, however, is international with attendance at bilateral and multilateral negotiations. We are authorized the use of Congressional travel funds, as authorized under Public Law 94-534, to cover travel and per diem expenses.

Rental of Word Processing Equipment

As we mentioned above, the Commission currently has a word processing system developed by A.M. International and recommended to us in 1979 by the House Information Systems. The House Information Systems also created two specialized programs -- one designed to handle basic information on all of our cases and one for the mailing list which can separate into various areas for specific mailings. The cost for rental and upkeep of this equipment is comparable to other office systems used by the House of Representatives. It may be necessary in this Fiscal Year to look into another system because of internal problems with the parent company. Should this be necessary, we shall again consult H.I.S. for assistance in obtaining word processing equipment which will be compatible with our present software and wherein, with a minimal of time and duplication, the material can be literally transferred onto the new system.

This equipment has added to the efficiency and productiveness of the administrative staff and has saved money with regard to printing that was normally done at GPO which can now be done in a clean final version here at the Commission and be printed as is without being typeset again. This not only saves money but also time.

Hearings and Other Commission Reports

The Fiscal '83 budget also envisages a substantial expenditure for printing and reproduction of Commission documents, including the Activities Report compiled at the end of every Congress which summarizes the work of the staff and the accomplishments during that period. This Activities Report is furnished to members of both the House and the Senate. For information requests, the Commission also has a basic information brochure which will be updated at the end of the Madrid Review Conference. Our Digest, which goes out twice a month to about 600 interested organizations and individuals, we have found to be a worthwhile and immensely useful tool not only for our record-keeping and updating of events but also for those who do not normally have access to the various publications which it summarizes.

In addition, we have the normal printing expenses of such reports as hearing records dealing with CSCE-related topics -- particularly East European and Soviet compliance with the human rights provisions of the Final Act -- and reports of Helsinki Monitors and translations of documents submitted by various monitoring groups and other organizations. We hope to get out a report on our active cases next year which deal with family reunification, binational marriage and family visits. Also, we will be working on a report to update our list of political and psychiatric prisoners and imprisoned Pentecostalists.

The Commission held only two hearings during the last fiscal year because of the prolonged meeting in Madrid. The first hearing was a joint hearing with the House Foreign Affairs Committee, Subcommittee on Human Rights and International Organizations, on the Soviet Violation of the Helsinki Final Act: The Invasion of Afghanistan dated July 22, 1982. The other hearing was on Religious and National Dissent in Lithuania and was held on August 5, 1981.

Next fiscal year, we plan to hold a number of hearings on such topics as human rights abuses in the Soviet Union and Eastern Europe, the suppression of religion in the Soviet Union, the Madrid Meeting and the future of the CSCE process.

Domestic Compliance

The Commission will be reviewing areas of United States implementation of the Helsinki Final Act with a view to encouraging greater compliance efforts. We will be continuing our work with interested individuals and groups in the investigation of complaints related to violations of the Final Act and in promoting further steps toward compliance. In this endeavor, we will be seeking the cooperation of the executive branch and appropriate private organizations.

Miscellaneous Activities

The Commission staff regularly responds to Congressional inquiries regarding the work of the Commission, the CSCE process, issues affecting East-West relations, human rights in Eastern Europe, and to requests for information on the status of individual cases from Congressional offices. In addition to supplying this information, the staff suggests action a Member might take, provides materials for the preparation of speeches and statements in the Congressional Record and drafts letters or statements for the Member's use. If the staff is unable to furnish the necessary information, it will refer the Member's office to the appropriate private organization or government agency. The Commission also functions as a clearinghouse for information about Congressional activities in the human rights area and other Helsinki-related issues. Often, Congressional staff members contact the Commission to inquire about what other Congressional offices have been active in a particular case and what actions the Commission has taken on the case. Many offices routinely send the Commission copies of letters they have sent or statements they have made regarding individual cases, so that the Commission will be kept abreast of these efforts and be better able to inform other offices.

The Commission supplies background material for Members of Congress participating in international meetings at which Helsinki-related issues are to be discussed or traveling to Eastern Europe or the Soviet Union. The Commission also assists in the drafting and supporting of a variety of Congressional resolutions.

APPENDIX I

Fiscal Year Budget Comparisons
For the Commission on Security and Cooperation in Europe

COMMISSION BUDGET COMPARISONS

		FY 1976 Actual	FY 1977 Estimate	FY 1977 Actual	FY 1978 Estimate	FY 1978 Actual
11.1	Personnel Compensation	6,000	214,000	203,000	230,000	220,500
12.1	Personnel Benefits	--	9,000	6,000	10,000	7,500
21.0	Travel and Transportation of Persons	--	18,000	12,000	18,000	9,000
23.0	Rent, Communications and Utilities	--	16,000	13,000	16,000	13,000
24.0	Printing and Reproduction	--	45,000	84,000	45,000	37,000
25.0	Other Services	--	20,000	11,000	20,000	8,000
26.0	Supplies and Materials	--	7,000	5,000	8,000	4,000
	TOTAL	6,000	329,000	336,000	347,000	319,000

COMMISSION BUDGET COMPARISONS
(Continued)

		FY 1979 Estimate	Revised FY 1979 Estimate	FY 1979 Actual	FY 1980 Estimate	FY 1980 Actual
11.1	Personnel Compensation	245,000	245,000	220,000	245,000	250,000
12.1	Personnel Benefits	8,000	8,000	7,000	9,000	10,000
21.0	Travel and Transportation of Persons	195,000	20,000	6,000	27,000	11,000
23.0	Rent, Communications and Utilities	14,000	28,000	20,000	36,000	25,000
24.0	Printing and Reproduction	40,000	60,000	25,000	80,000	73,000
25.0	Other Services	12,000	12,000	12,000	25,000	22,000
26.0	Supplies and Materials	7,000	8,000	12,000	10,000	7,000
31.0	Equipment	--	--	23,000	--	--
	TOTAL	521,000	381,000	323,000	432,000	398,000

COMMISSION BUDGET COMPARISONS
(Continued)

		FY 1981 Estimate	FY 1981 Actual	FY 1982 Estimate	Revised FY 1982 Estimate	FY 1983 Estimate
11.1	Personnel Compensation	281,000	252,000	336,000	405,000	394,000
12.1	Personnel Benefits	11,000	9,000	18,000	13,000	13,000
21.0	Travel and Transportation of Persons	30,000	9,000	25,000	20,000	29,000
23.0	Rent, Communications and Utilities	42,000	26,000	36,000	46,000	51,000
24.0	Printing and Reproduction	68,000	29,000	80,000	60,000	65,000
25.0	Other Services	24,000	17,000	25,000	20,000	20,000
26.0	Supplies and Materials	22,000	5,000	15,000	13,000	13,000
	TOTAL	478,000	347,000	534,000	577,000	585,000
	Amount Appropriated	450,000		306,000	404,000*	350,000
	Plus Carryover	28,000		28,000	173,000	35,000
	Total Budget Request	478,000		334,000	577,000	385,000

*The appropriation for FY 1982 was not enacted at the time this budget was prepared. The new 1982 estimates shown here are based upon a continuing resolution (PL 97-92) in effect through March 31, 1982.

ANNUAL REPORT

OF THE

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

FOR THE PERIOD COVERING JANUARY 1 THROUGH DECEMBER 31, 1981

I. INTRODUCTION

In accordance with Section 6 of Public Law 94-304, dated June 3, 1976 this report describes the activities of the Commission on Security and Cooperation in Europe from January 1 through December 31, 1981.

Commission Background

Created in 1976 as an independent agency, the Commission on Security and Cooperation in Europe is charged with the responsibility of monitoring and encouraging compliance with the provisions of the Final Act of the Conference on Security and Cooperation in Europe (CSCE), an agreement signed in 1975 in Helsinki, Finland, by the heads of state of the United States, Canada, the Soviet Union and 32 otherEuropean countries. The Commission was mandated to focus particularly on the human rights and humanitarian provisions of the Helsinki Final Act. In carrying out its mandate, the Commission has been extremely active in documenting violations of the Final Act, in promoting public awareness and implementation of the Accords, and in formulating and executing United States government policy on these issues.

Composed of 15 Legislative and Executive Branch officials the Helsinki Commission, as it is commonly known, is chaired by Representative Dante B. Fascell. Senator Bob Dole serves as Co-Chairman. Other Congressional members include Senators Orrin G. Hatch, John Heinz, Alfonse M. D'Amato, Claiborne Pell and Patrick J. Leahy; Representatives Sidney R. Yates, Jonathan Bingham, Timothy E. Wirth, Millicent Fenwick and Don Ritter. Administration Commissioners presently are Stephen E. Palmer, Jr., Bureau of Human Rights and Humanitarian Affairs; Richard Normal Perle, Assistant Secretary of Defense for International Planning; and William H. Morris, Jr., Assistant Secretary for Trade Development from the Commerce Department.

Staffing

The Commission staff consists of 13 permanent fulltime employees and two part-time assistants, occasional volunteer students and summer interns, and personnel on loan from other government agencies. At the present time, the staff is made up of the Staff Director and General Counsel, Mr. R. Spencer Oliver; two Deputy Staff Directors, Samuel G. Wise and Michael J. Packard; seven staff assistants with various country responsibilities and fluency in languages such as Italian, Spanish, French, Ukrainian, German, Russian and Serbo-Croation; three fulltime administrative/clerical assistants; one part-time Librarian and one part-time staff consultant. We also have a Foreign Service Consular Officer on loan from the Department of State and our press and information officer is from the International Communication Agency.

Funding

Under Public Law 94-304, amended by the Foreign Service Relations Act of 1979 (Public Law 95-426), there is authorized to be appropriated for each fiscal year until expended $550,000 to meet the expenses of the Commission. In addition, under Title IV, Miscellaneous Provisions, of Public Law 96-60, there is authorized

and appropriated each fiscal year $6,000 which may be used for official reception and representation expenses.

Following are the breakdown in actual costs for calendar year 1981 in the various reporting categories:

Object Classification	Amount Spent
Personnel Compensation	$258,000
Personnel Benefits	$ 10,000
Travel and Transportation of Persons	$ 8,000
Rent, Communications and Utilities	$ 30,000
Printing and Reproduction	$ 17,000
Other Services	$ 19,000
Supplies and Materials	$ 6,000
TOTAL	$348,000

II. THE MADRID MEETING

One of the unique features of the Helsinki Final Act is its section on follow-up. The 35 Helsinki signatory nations agreed in the Final Act to meet periodically to review past implementation and to discuss, and possibly adopt, new measures to enhance European cooperation and security. The second such follow-up meeting of the Conference on Security and Cooperation in Europe opened in Madrid, Spain, in November 1980 and continued throughout 1981. Preparations for, and participation in, the Madrid Meeting consumed a significant portion of the Commission's time and resources in 1981.

The Commission's Role

Because of the nature and extent of Commission expertise both Commissioners and staff members were integrated into the United States delegation to the Madrid Meeting along with representatives from the Departments of State, Commerce, Defense, the Arms Control and Disarmament Agency and the International Communications Agency. Representative Dante B. Fascell and Senator Claiborne Pell, later replaced by Senator Bob Dole, serve as Vice-Chairmen of the United States delegation and all Commissioners are members of the delegation. Commission Staff Director, R. Spencer Oliver, is the Deputy Chairmn of the American delegation, second in command to Ambassador Max Kampelman, who was appointed by the President to lead the U.S. negotiators. A Congressional delegation, led by Commission Chairman Fascell and including then Co-chairman Pell and other Commissioners, travelled to Madrid during the first weeks of the meeting to participate in the deliberations.

Three sessions of the Madrid Meeting -- totaling 32 weeks -- were held during 1981. At any given time, about half the Commission staff was fully engaged in the negotiations in Madrid. Commission staffers represented the United States on various committees at the Madrid Meeting, served as the special assistant to Ambassador Kampelman, acted as the press, Congressional and public relations officers for the delegation, handled all the delegation's correspondence, researched and drafted speeches, prepared and delivered statements, provided translation services, developed Western tactics with our NATO allies, drafted reporting cables, and provided much of the administrative and secretarial support for the delegation.

Back-up support from those Commission staffers who remained in Washington during the Madrid sessions was vital to the delegation. Staff members provided the delegation with research on particular issues -- responding to inquiries and requests from the delegation on a regular basis -- and supplied updated information necessary for speeches and statements. Commission staff members also participated in the weekly strategy sessions of the intergovernmental steering group on CSCE held at the Department of State. Commission staffers in Washington regularly briefed Commissioners, other Members of Congress and their staff, and representatives of the press and private organizations on the developments at the Madrid Meeting.

While the Madrid Meeting was in recess, the Commissioners and staff played an active role in developing U.S. policy and tactics toward the meeting and participated in numerous consultations with representatives from other Helsinki states in Washington, at NATO headquarters in Brussels and in various European capitals. Staff members continued to handle the delegation's correspondence and prepared speeches for the next phase of the meeting. During one break in the negotiations, the Commission hosted a briefing on Madrid for non-governmental organizations and during each recess, the Commission issued an interim report on the status of the meeting.

The Negotiations

The Madrid Meeting has taken place under difficult international circumstances. Afghanistan, Poland and continuing Soviet human rights violations cast a heavy pall over the proceedings. Soviet efforts to dilute the procedures which had served the West so well at the first review meeting in Belgrade, Yugoslavia, in 1977 and 1978 resulted in a deadlocked preparatory meeting and even raised fears that Moscow may have decided to scuttle the CSCE process.

Nevertheless, despite the gloomy atmosphere, the first phase of the meeting -- November 11 to December 18, 1980 -- produced a more thorough and candid review of implementation than was achieved at Belgrade. This result was due to a number of factors: greater unity among the NATO allies; the constantly deteriorating Soviet human rights record; the invasion of Afghanistan; the threat to Poland and, finally, the willingness of a growing number of CSCE participants to directly criticize Soviet and East European transgressions. In comparison to Belgrade, Western countries -- led by the U.S. -- were much more critical and specific during the Madrid implementation review. The American delegation alone cited over 60 individual cases of human rights violations in the USSR and Czechoslovakia during the first phase of the meeting. In the months that followed, that number topped 100 causing considerable embarrassment for the Soviets.

After 22 weeks of deliberations, the second phase of the Madrid Meeting -- which had begun on January 27 and was devoted to the consideration of some 80 new proposals and the drafting of a concluding document containing points of agreement -- ended with inconclusive results. The 35 participating States, unable to work out differences on the remaining issues dividing East and West, decided to recess for three months starting July 28, 1981.

There were two key issues at the heart of the impasse were military security and human rights. All three groupings in the CSCE process -- NATO, the Warsaw Pact, and the Neutral and Nonaligned countries (NNa) -- had shown strong interest in convening a post-Madrid conference on the military aspects of security. However, the differences of approach between East and West on this pivotal issue have proved difficult to reconcile. Complicating the already complex negotiating atmosphere was the insistence of the West, led by the United States, that substantive commitments

in the human rights area must accompany any agreement in the military security field.

Phase III -- October 27 through December 18, 1981 -- came to an uneasy and inconclusive end after eight weeks of hard negotiations on a concluding document. The brutal imposition of martial law and subsequent suspension of civil rights in Poland occurred just as this segment of the meeting was entering its final week, and, thus, dashed all hope of reaching agreement in 1981. The likelihood of any substantive conclusion to the Madrid Meeting was as uncertain as the fate of Poland.

III. PUBLIC HEARINGS

The Commission conducted four public hearings in 1981 on various aspects of Soviet and East European implementation of the Helsinki Final Act. Prior to each hearing, the Commission staff researched relevant issues and prepared briefing materials for the Commissioners and background information for release to the press and public at the hearings. A hearing record -- including written statements -- is published and distributed to the Commission's mailing list after each hearing.

Soviet Violation of Helsinki Final Act: Invasion of Afghanistan

On July 22, 1981, the Commission held a joint with the Foreign Affairs Committee of the House, Subcommittee on Human Rights and International Organizations on the Soviet invasion of Afghanistan. Witnesses included "Miss Nahid," an 18-year-old Afghan woman who led a demonstration of school children in April of 1980 against Soviet domination in her country; Thomas Gouttiere, director of the Afghan studies program at the University of Nebraska at Omaha; Malik Muhammed Hussain Wardak, an Afghan freedom fighter leader; Karen McKay, the Executive Director of the Committee for a Free Afghanistan; Dr. Bashir, founding member of the Afghan National Liberation Front; M. Seddiq Farhang, former economic adviser to Babrak Karmal; and Alfred Monks, professor of international relations and political science at the University of Wyoming at Laramie.

Religious and National Dissent in Lithuania

Representative Millicent Fenwick chaired an August 5, 1981 hearing on religious and national dissent in Lithuania. Testifying before the Commission were Stephen Palmer, Acting Assistant Secretary of State for Human Rights and Humanitarian Affairs; Vladas Sakalys, a Lithuanian who escaped on foot from his country in 1980; Father Casimir Pugevicius, director of Lithuanian Catholic Religious Aid in New York; and Ray Chesonis, vice-President of the Lithuanian American Community and former public member to the Madrid Meeting.

The written record of this hearing included statements from Senator John Heinz and Representatives Charles Dougherty and Cardiss Collins; and reports from the Lithuanian American Council, Inc.; Lithuanian-American Community of the U.S.A.; Lithuanian World Community and the Supreme Committee for the Liberation of Lithuania. For the hearing, the Commission staff prepared and released updates on the Catholic Committee and the members of the Lithuanian Helsinki Group, including summaries of Lithuanian Helsinki Group documents, biographical sketches and appeals on behalf of imprisoned members of the Group.

Fifth Anniversary of the Formation of the Ukrainian Helsinki Group

On November 16, 1981, Major General Pyotr Grigorenko, a founding member of the Ukrainian and Moscow Helsinki Group,

testified before the Commission to commemorate the Fifth Anniversary of the Formation of the Ukrainian Helsinki Group. Other witnesses included Myroslaw Smorodsky, former public member of the U.S. delegtaion to the Madrid CSCE Review Meeting; Nina Strokata-Karavansky, a founding member of the Ukrainian Helsinki Group and a former political prisoner in the Soviet Union; and Dr. Volodymyr Malynkovych, also a founding member of the Ukrainian Helsinki Group.

In addition to her testimony, Ms. Strokata-Karavansky submitted written statements on imprisoned members of the Ukrainian Helsinki Group, including Hanna Mykhaylenko, Vasyl Barladyanu, Yury Shukhevych and Yury Badzyo. Among the Ukrainian organizations which submitted statements for the record were the World Congress of Free Ukrainians; the Helsinki Guarantees for the Ukraine Committee; Smoloskyp, the Ukrainian Congress Committee of America; and the Ukrainian National Association. The Commission staff prepared background information including updated biographies of the 30 imprisoned members of the Ukrainian Helsinki Group for release at the hearing.

The Crisis in Poland and Its Effects on the Helsinki Process

Commission Co-chairman Senator Robert Dole presided over a December 29, 1981 hearing on the imposition of martial law in Poland and the effect it had on the future of the CSCE process.

The main witness was Zdzislaw Rurarz, former Polish Ambassador to Japan who defected on December 24 and requested political asylum in this country. Ambassador Max Kampelman, the Chairman of the U.S. Delegation to the CSCE review meeting in Madrid also testified on the impact the Soviet invasion of Poland had on the conference and the effect it would have on any further negotiations. Also testifying were Stanislaw Baranczak, founder of the Committee for the Defense of Workers in Poland; Deputy Assistant Secretary of State for European Affairs, John Scanlan; and Tom Kahn, Assistant to the President of the AFL-CIO.

IV. COMMISSION MEETINGS

Ambassador Franz Van Dongen, head of the Netherlands delegation to the Madrid Meeting and representative of the 10-member European Community, accompanied by Dutch CSCE expert Hans Meesman, visited Washington for consultations with U.S. officials on the next phase of the meeting. On January 13, 1981, the Commission sponsored a meeting with the Dutch officials and held a luncheon in honor of Ambassador Van Dongen.

Three representatives from the West German Foreign Ministry arrived in Washington on February 20 and spoke with American officials regarding bilateral foreign affairs and CSCE issues. The visiting delegation included Mr. Braeutigam, Senior Advisor to Helmut Schmidt; Mr. Gunter Joetze, CSCE expert in Foreign Ministry; and Mr. Holik, military security expert. Commissioners and their CSCE liaisons were invited to attend the meeting along with the staff of the Commission.

Together with the Congressional Research Service and the Joint Economic Committee, the Commission sponsored a forum on March 6 at which eminent international scholars reviewed East European compliance with the economic and commercial information provisions of the Final Act.

A group of leading figures in the New York-based Helsinki Watch -- including Chairman Robert Bernstein -- came to Washington for a day of discussions with Administration and Congressional leaders on human rights and its role in international relations. After meeting with then-Assistant Secretary of State for Europe,

Lawrence Eagleburger, on March 18, they called on Chairman Fascell in his office. Several Commissioners attended this informal meeting.

On April 27, 1981, the Commission requested that Assistant Secretary of State Lawrence Eagleburger meet with the Commission in executive session to discuss the status of the negotiations and possible future developments at the Madrid Meeting. One question in particular was how balance between human rights and security would be worked out in the concluding document. Due to illness, Amb. Eagleburger could not attend but he was replaced by Deputy Assistant Secretary Allen Holmes.

The Commissioners were invited to an informal, closed meeting on May 28 with Ambassador Max M. Kampelman, who was in Washington for a brief visit. Chairman Fascell and the Commission wanted to inform Amb. Kampelman the Commission's concerns that balance be preserved between human rights and security issues in the concluding document and asked the Ambassador for an update on the negotiations.

On September 17, the Commission hosted a "Briefing on Madrid" for representatives of non-governmental organizations and other interested individuals. Ambassador Kampelman addressed the gathering and responded to questions. A reception followed the briefing. Among the more than 100 in attendance were representatives from ethnic, religious and human rights organizations; Public Members appointed by the President during the first Phase of the Madrid Meeting; and many Members of Congress and their aides.

Dr. Herbert Hupka, Chairman of the Subcommittee on the Free Flow of Information and People of the North Atlantic Assembly, led a ten-member delegation to the United States the week of September 21-27. Dr. Hupka specifically asked for a meeting with the Commission to discuss the future of the CSCE process; how to continue to promote the free flow of information and people; and the prospects for CSCE and human rights under the Reagan Administration. The Commission held a most productive roundtable discussion with Dr. Hupka and his group on September 22.

Before the open hearing on the Fifth Anniversary of the Ukrainian Helsinki Monitoring Group on November 16, the Commission again asked Ambassador Kampelman to appear before a closed session to brief the Commissioners on the current status of negotiations in Madrid. This was primarily an opportunity for the Commissioners to impress upon the Ambassador their deep concern that balance be preserved in whatever outcome emerges from the Meeting.

V. MONITORING COMPLIANCE

Human Rights Research and Casework

Mandated by its enacting legislation to pay particular attention to the humanitarian aspects of the Helsinki Final Act, the Commission devotes much of its time to researching and documenting human rights violations in the Soviet Union and Eastern Europe. The Commission receives a steady stream of material from various private organizations in the United States and Europe as well as from citizens groups and individuals in the Warsaw Pact nations. In addition to regularly translating and publishing these documents, the staff uses these materials to document human rights abuses, to update the extensive individual case files the Commission maintains, to serve as sources of information for the many research projects and reports the Commission issues, and for speeches delivered by the U.S. delegation to the Madrid Meeting.

Much of the Commission staff's daily work has focused on casework on individual violations of human rights. These fall into several categories: emigration, family reunification, binational marriage, travel (all referred to as human contacts cases); political prisoners; and various types of dissenters. The staff maintains extensive files on hundreds of such cases, and many staff hours are spent on casework correspondence. In addition, the Commission has compiled and regularly updates lists of unresolved human contacts cases. The Commission staff also spends time counseling and advising family members, concerned individuals, representatives of private groups and Congressional staffs on methods that might be employed in efforts to resolve cases.

Country by Country/Area Responsibility

All the signatory countries are divided among the various experts on the Commission staff who review their compliance in accordance with the various "Baskets" and principles. Following is background information on the staff in 1981 and the duties and country responsibility for each.

R. Spencer Oliver is the Staff Director and General Counsel for the Commission. In addition to his regular duties, which include overall staff direction, guidance in carrying out projects and being the central contact with Commissioners and high-level personnel at the Department of State and other Government agencies, he was also named as the Deputy Chairman of the U.S. delegation at the Madrid review conference which began in November 1980 and continued through 1981.

Deputy Staff Director Michael Packard graduated from the U.S. Naval Academy with a B.S. in naval science and military history and received a M.A. in history from Duke University. Currently a Lieutenant-Commander in the Navy reserve intelligence. Previously on the staff of Co-chairman Robert Dole, Mr. Packard joined the Commission in September of this year. His duties include assisting in staff direction with responsibility for military security questions (CBMs, CDE) and he attended the opening sessions of the third phase of the Madrid talks.

Mr. Samuel Wise came to the Commission in October of 1977 on loan from the Department of State. A Foreign Service Officer, he had served in the Soviet Union, Czechoslovakia and Italy and was Deputy Director for East-West exchanges at State prior to his assignment with the Commission. Mr. Wise, our Deputy Staff Director, retired from the Foreign Service at the end of 1981 and was hired by the Commission as full time staff. In addition to being the U.S. representative in Madrid dealing with Mediterranean issues and the preamble of the Final Act, his main responsibilities are assisting in staff direction and coordination with private groups and government agencies with regard to U.S. compliance with the Helsinki Accords. He previously participated in the Belgrade Meeting and the Montreux and Valletta Experts Meetings.

Senior staff assistant Dr. Martin Sletzinger, who has a Ph.D in Soviet and East European studies from Harvard, follows events in Yugoslavia, Bulgaria and Czechoslovakia. In addition to the usual monitoring and handling of cases involving human rights abuses and family reunification, the Commission undertook the task of compiling and editing a collection of all the Charter '77 documents issued since that human rights monitoring group was established in January 1977. This collection will be published in 1982. Dr. Sletzinger also has primary responsibility for CSCE follow-up, military security and is an expert on CSCE procedures. He has been with the Commission since it began in 1976 and has

served on the delegations of the Belgrade and Madrid Meetings and the Montreux and Valletta Experts Meetings. At Madrid, he worked on follow-up, Mediterranean and Basket I areas as well as assisting delegation personnel with reporting responsibilities.

Mr. George Boutin was assigned to the Commission on a non-reimbursable basis from the Department of State from April 1980 through April of 1981. An expert in the field of international economics, he was directly involved in the Basket II negotiations in Madrid -- which was the only Basket on which agreement was reached. He acted as a liaison between the Department of State's Economic Bureau and the Commission and served as Acting Staff Director while both the Staff Director and Deputy Staff Director were attending the conference in the early Spring.

Chris Brescia, a specialist in economics, handles Basket II issues for the Commission (economic, scientific, technological and commercial cooperation) which includes monitoring multilateral and bilateral activities of the signatory states. He, along with George Boutin, was part of the Basket II negotiations in Madrid during the beginning stages. Multilaterally, Chris has been deeply involved in continuing negotiations on Basket II issues at the Economic Commission for Europe in Geneva. Almost all of the Basket II issues are discussed in this forum and member countries address specific means by which they can resolve growing problems in the areas of trade, energy and the environment. Bilaterally, Chris has been involved in the workings of the U.S. Chamber of Commerce's East-West Trade Advisory Board and the Joint Economic Commission which meet periodically with delegations from Eastern Europe. Chris is also responsible for casework and human rights problems related to Hungary. Mr. Brescia started with the Commission in October of 1979.

Fluent in Russian and German, Catherine Cosman is responsible for the compilation, editing and translation of human rights documents from citizens' groups in the USSR, the Baltic states and the GDR. She has overall responsibility for human rights, including national, religious, political, economic and ethnic dissent in those countries. To highlight human rights problems in the Soviet Union in 1981, the Commission nominated four members of the Soviet Helsinki Groups for the 1981 Nobel Peace Prize: Yuri Orlov and Anatoly Shcharansky of the Moscow Helsinki Group; Mykola Rudenko of the Ukrainian Helsinki Group; and Viktoras Petkus of the Lithuanian Helsinki Group. In addition to following general trends in dissent in the USSR, the Baltic states and the GDR, the Commission staff also follows developments in individual cases. Human rights topics of particular concern in 1981 included: official Soviet reprisals against 52 members of the Soviet Helsinki Groups; the hunger strike of Nobel Laureate Andrei Sakharov and his wife, Elena Bonner; continued Soviet abuse of psychiatry for political purposes; the plight of religious believers in the USSR, particularly that of the Pentecostals in the U.S. Embassy in Moscow; the KGB campaign against advocates of workers' rights; and heightened tensions among various national and ethnic groups in the USSR. In terms of U.S. compliance, Ms. Cosman follows religious rights and the status of prisons and psychiatric hospitals.

Mr. Griffin Crump, under the LEGIS Fellow Program, worked for the Commission from January through August 1981 on loan from the Department of Labor. He utilized the resources and expertise available to the Commission to write an in-depth report on human rights all over the world with particular emphasis on the Helsinki signatories.

A staff assistant who started with the Commission in 1977 as an intern, Lynne Davidson is also fluent in Russian. Her country responsibilities are Romania and Poland and she also works on Soviet research projects and Russian translations. A member of the U.S. delegation in Madrid for the latter half of 1981, Lynne

translated written texts of Soviet speeches, handled the delegation's correspondence, drafted reporting cables, assisted the public and Congressional visitors to the Madrid Meeting, and served as back-up to the Deputy Chairman on two committees, including the one dealing with human rights questions.

Orest Deychakiwsky started with the Commission in November of 1981. Fluent in Ukrainian, he keeps track of developments in that area. With main responsibility for all emigration casework Orest has also been handling the backlog of casework that accumulated while other staff members were in Madrid.

Leslie Farrell works part-time and serves as the Commission's librarian. Her duties include reading and clipping and filing pertinent articles from five major newspapers daily and articles from weekly and other publications. She has been with the Commission since January of 1980.

A staff assistant with the Commission since its inception, Meg Donovan is the Commission's chief liaison with NGOs and coordinator with Congressional offices on human rights issues. Meg has overall responsibility for Basket III (human contacts and family reunification questions) and follows emigration and related developments in the Soviet Union. In Madrid, as a member of the U.S. delegation for nearly all of 1981, Meg started as the Congressional and public affairs officer of the delegation, wrote speeches for the Ambassador, served on the committee dealing with Basket III, drafted reporting cables and new proposals, and later became the Ambassador's personal aide and press officer for the delegation.

John Finerty joined the Commission in November of 1981 from the office of Congressman Gerald Solomon. With a Master's Degree from S.U.N.Y. in Russian studies and fluent in Russian, John has main responsibility for all Russian translations and assists in the preparation of USSR human rights documents and reports. He also maintains all the Commission's files on the USSR.

A retired Foreign Service Information Officer, Yale Richmond came to the Commission in March of 1980 as a Senior Staff Consultant. On the staff, he deals with issues concerning cultural, educational and scientific exchanges and information. In the interim before we received a press officer from ICA in November of 1981, Yale compiled the information and edited the bimonthly CSCE Digest for printing. He was a member of the U.S. delegation at Madrid during the Spring of 1981.

John Sandstrom joined the staff in November of 1981 to serve as the Press and Information Officer. On loan from the International Communication Agency, John will be with the Commission for one year. In addition to editing press releases, liaison with Washington press personnel and preparing Commission press conferences and briefings, John writes and edits the bimonthly CSCE Digest. He spent a few weeks at the Madrid Review Conference at the end of the last phase in December 1981 where he served as the delegation's press officer for this very crucial period.

The administrative/clerical staff includes Deborah Burns, the Office Manager, who has been with the Commission since July of 1978, and Barbara Blackburn, the Administrative Assistant. The Secretary/Receptionist position was vacant for all of 1981.

The Commission utilized the services of three American University Semester Students during the Spring of 1981. In addition to helping with the backlog of casework, the students -- Kathleen Graves, Mike Turnbull and Mark Wojcik -- also received class credit for their work here. Also, to assist in documenting and filing of RFE/RL publications, the Commission hired a student, John Joffre, to work part-time for a few months in the Spring. In

the summer, the Commission hired four students who worked generally from June 1 through the middle of August. They were: Nellie Hauke, Susan Perkoff, Anne Murphy and Michael Gelber. They were included in all the activities prepared for interns by the House of Representatives and could attend seminars and briefings.

VI. CONGRESSIONAL RELATIONS

Although the Commission is an independent agency with representation from the Executive Branch, the majority of Commissioners are Members of Congress and the Chairman is appointed by the Speaker of the House. As a result, the Commission maintains a special relationship with the Congress and works closely with both individual Members and Committees.

In 1981, the Commission staff regularly responded to Congressional inquiries regarding the CSCE process and the Madrid Meeting, as well as issues affecting East-West relations and human rights in Eastern Europe. The Commission staff filled many requests for information on the status of individual cases in 1981. In addition to supplying this information, the Commission staff suggested actions a Member might take, provided materials for the preparation of speeches and statements in the Congressional Record and drafted letters or statements for the Member's use. If the staff is unable to furnish the necessary information, it referred the Member's office to the appropriate private organization or government agency.

The Commission also functions as a clearinghouse for information about Congressional activities on U.S.-European human rights and other Helsinki-related issues. Often, Congressional staffers contacted the Commission to inquire what other Congressional offices have been active in a particular case and what actions have been taken on behalf of that case. Many offices routinely sent the Commission copies of letters they have sent or statements they have made regarding individual cases so that the Commission will be kept abreast of these efforts and be able to better inform other offices.

In Madrid, the Commission staff acted as the Congressional relations officers for the U.S. delegation and had complete responsibility on the delegation for visiting Members and Congressional staffers. Among the Congressional visitors to the Madrid Meeting in 1981 were Rep. Don Bonker and Mr. Fariborz Fatemi, the Chairman and the Staff Director of the House Subcommittee on Human Rights and International Organizations; Mr. Bob Ludwiczak, Administrative Assistant to Senator Charles Grassley; Ms. Nancy Stetson of the minority staff of the Senate Foreign Relations Committee; and Mrs. Joanne Kemp, wife of Rep. Jack Kemp and the chairwoman of the Congressional Wives for Soviet Jewry.

While there was relatively little Congressional travel to the Soviet Union and Eastern Europe in 1981, the Commission supplied background materials to those Members of Congress who did travel to those countries.

While the Commission has no legislative authority, the Commission staff serves as a resource for Members of Congress, their staffs and Committee staffs in the initiation and drafting stages of resolutions dealing with CSCE, human rights and related issues. The Commission -- through public hearings -- has provided a forum for Members to express their views on many Helsinki-related issues and, where appropriate, has held joint hearings with legislative committees of the Congress.

Commission publications are available to all Congressional offices, and hearing notifications are published in the Congressional Record so that interested Members will be kept informed of the Commission's activities.

VII. COOPERATION WITH NON-GOVERNMENTAL ORGANIZATIONS

Non-governmental organizations (NGOs) are a primary source of information for the Commission as well as the major channel through which the Commission publicizes its work. The Commission, therefore, keeps in close and regular contact with representatives of the various private groups interested in CSCE. NGO representatives receive all Commission publications and press releases and are invited to attend Commission meetings and hearings. On a less formal basis, Commissioners and staff members meet and consult frequently with representatives of private organizations.

The Commission attempts to provide a forum for NGOs to express their views by inviting private witnesses to testify and submit statements at Commission public hearings. Often, as was the case with the August 5, 1981 hearing on Lithuania, NGOs provide the impetus for the hearing. The Commission, by maintaining close contacts with NGOs, is geared to bring the particular concerns of private groups to government attention thus making government CSCE policy more responsive to non-governmental organizations and government information more accessible to them.

At the Madrid Meeting, members of the Commission staff operated the public affairs office and served as liaisons for the U.S. delegation with the hundreds of private organizations represented there. Frequent briefings were held and meetings with delegation leaders were arranged. The Commission staffers on the U.S. delegation also had primary responsibility for assisting the Public Members of the delegation, 30 prominent individuals representing a variety of ethnic, religious, labor and civic constituencies. The Commission staff prepared special briefing books for these individuals and provided them with Commission materials prior to their arrival in Madrid.

During the summer recess of the Madrid Meeting, on September 17, 1981, the Commission hosted a "Briefing on Madrid" for NGO representatives and other interested persons. Nearly 150 individuals attended the session to hear Ambassador Max Kampelman, Chairman of the U.S. delegation to the Madrid Meeting, report on the progress of the negotiations and respond to questions from the audience. A reception immediately following the briefing for the NGOs was held in the Capitol and was attended by Commissioners and other Members of Congress.

In addition to the briefing, the Commission staff kept the NGO community informed of developments at the Madrid Meeting throughout 1981. While the meeting was in session, a section on the negotiations was a regular feature in the bi-monthly Commission publication CSCE Digest which is mailed to several hundred private organizations. During the 1981 Madrid recesses, the Commission staff prepared and published three interim reports on the status of the Madrid Meeting. These reports were sent to a larger audience of several thousand including numerous NGOs in the United States and Europe. Commission staffers also maintained extensive personal contacts with NGO representatives in order to keep them up-to-date on the meeting.

In 1981, Commission staffers attended many conferences, seminars, assemblies and meetings hosted by private organizations and professional associations both in the United States and abroad. On numerous occasions, Commissioners and staff members presented reports and papers, delivered speeches and participated in panel discussions.

VIII. MISCELLANEOUS REPORTS AND ACTIVITIES

Activities Report, 96th Congress

In early January of 1981, the Commission printed and distributed to Members of Congress and other interested groups and individuals, a report summarizing the activities of the staff from the period January 1979 through December 1980, the 96th Congress.

Thematic Survey of the Documents of the Moscow Helsinki Group

Released on May 12, 1981, this report, was based on materials submitted by Lyudmila Alekseeva, the United States' Moscow Helsinki Group representative, and were translated and edited by the staff of the Commission. Contained in this survey, were summaries of the various documents of the Group and a list of the imprisoned members of the Group still in the Soviet Union.

The Madrid CSCE Review Meeting: Interim Reports

After the close of each phase of the Madrid Meeting -- reports dated January 6, 1981, August 1981 and January 8, 1982 -- the Commission prepared reports explaining what happened during that particular phase, the progress achieved and the prospects for the future of the CSCE meeting. An in-depth summary of the Madrid Meeting appears in Chapter II.

IX. MEDIA ACTIVITIES

The Commission issues a twice-monthly digest which attempts a detailed compilation of American and European media coverage of Helsinki-related topics. The CSCE Digest, which includes a section on Commission activities, is mailed to interested Members of Congress, governmental and private organizations and members of the media and general public in the United States and Europe.

The Commission also maintains an active file of Foreign Broadcast Information Service (FBIS) daily translations of media in the Soviet Union as well as in Eastern and Western Europe. Articles of relevance to the CSCE process and East-West relations are analyzed and filed for use in the Commission's daily monitoring works as well as in its bimonthly Digest of current CSCE news.

The Commission maintains extensive contacts with media representatives of human rights organizations and groups concerned with national, ethnic and religious rights. These publications include newspapers, journals and information bulletins from a variety of American and European non-governmental organizations. Such contacts included providing information on Commission activities, general information on human rights issues and translations of samizdat documents by the Commission staff.

The Commission also works closely with the media elements of various U.S. government agencies such as the appropriate language services of the Voice of America, the Press Service of the International Communications Agency and various branches of Radio Free Europe and Radio Liberty. These organizations are particularly important to the Commission's work, since they carry our messages to those persons in Eastern Europe and the Soviet Union whose access to news sources with information of vital interest to them is severely restricted by their own governments. VOA, RFE and Radio Liberty, as well as the so-called "ethnic" press (which keeps us in contact with our domestic constituency) give extensive coverage to Commission activities, with a special emphasis on public hearings and the Madrid review conference, at which all three news organizations maintained permanent correspondents. Among other activities, the Commission staff has arranged interviews with Commissioners, translated unofficial documents, provid-

ed information on various aspects of the Helsinki process, publicized Commission activities, and provided general information on human rights problems.

The continuing Madrid review conference, and the developing Polish situation, focused media attention on the Helsinki process and led to many inquiries concerning the role of the Commission and the prospects for the future of the Helsinki accords.

Some representative samples of the Commission's activities with the media in 1981 included:

Commission Chairman Dante B. Fascell and Dr. Olin C. Robison, President of Middlebury College, were interviewed by Herbert Kaplow on ABC's "Directions" (March 15) on the extent of freedom of religion in the Soviet Union.

The Washington Star (May 15) reported that Secretary of State Haig had personally presented to Soviet Ambassador Dobrynin a copy of Senate Resolution 131 calling for the release of dissident Anatoly Shcharansky. The resolution was introduced by Commissioner D'Amato and was co-sponsored by 71 other Senators including Commission Co-chairman Dole and Commissioners Hatch, Pell, Heinz and Leahy.

Flora Lewis, in the New York Times (July 3) reported that Commissioner Millicent Fenwick spoke up "loud and clear" on human rights at a conference on European-American relations held in Strasbourg, France.

A Commission hearing on Soviet violations of the Helsinki Final Act engendered by the invasion and occupation of Afghanistan (July 22) was covered widely by the wire services: TV, VOA, RFE and Radio Liberty.

The Baltimore Sun (August 6) carried a story on the Commission hearing on religious and national dissent in Lithuania. This story was also given wide exposure in Eastern Europe and the Soviet Union by VOA, RFE and Radio Liberty.

A House Resolution, introduced by Commissioner Wirth (December 8), associating the House of Representatives with the aims of the hunger strike protest of Nobel prize-winner Andrei Sakharov, along with a similar Senate resolution and a White House statement by President Reagan, was given massive exposure by the media. The result: an unprecedented move on December 14 by the Soviet government which acceded to Sakharov's demands to permit the emigration of his son's fiancee.

The December 28th Commission hearing on "The Situation in Poland and the Helsinki Process," featuring testimony by former Polish Ambassador Rurarz, Ambassador Kampelman, Deputy Assistant Secretary of State Scanlon and AFL-CIO's Tom Kahn generated the most extensive media coverage of any Commission activity in recent memory. The hearing was featured in the evening TV and radio newscasts of all the major U.S. networks and repeated in most of their morning shows as well. In addition, the Voice of America, Radio Liberty and Radio Free Europe used taped excerpts from the hearing in their extensive coverage beamed in local languages to the Soviet Union, Poland and other East European countries. Nearly all major U.S. newspapers gave heavy front page coverage to the hearing along with photographs of Ambassador Rurarz and Commission members. Particularly extensive were the reports (December 29) in the Washington Post, the New York Times, the Los Angeles Times, the Philadelphia Inquirer, and the Miami Herald.

MONITORING EVENTS IN POLAND

Senator WEICKER. To what extent is the Commission involved in monitoring events in Poland?

Mr. FASCELL. Fully in the sense that we spent our whole time in Madrid, both before Secretary Haig got there and since in following events in Poland and making the case on the record, off the record, in the press and outside of the press that everything that happened in Poland was a violation of the whole Helsinki accords, and I would like Spencer, who spent a great deal of time there, to touch on that briefly because I think it is an important issue.

Mr. OLIVER. Mr. Chairman, as you may know, the United States refused to do "business as usual" at the Madrid meeting after the events of Poland. Secretary Haig, along with the other NATO foreign ministers, traveled to Madrid in February. We concentrated the entire 5-week session on Poland.

The Commission staff did most of the backup research for the speeches made in trying to document the violations in Poland and every aspect of the Helsinki Final Act.

None of us have been in Poland since that time, and we primarily have been monitoring it through State Department reports and cables and through the information that comes to us through private organizations, particularly the Polish-American Congress.

Mr. FASCELL. One other thing. Mike, you were at the hearing Senator Dole chaired. Tell the Senator who was there and how that had to do with Poland.

Mr. PACKARD. After Christmas, we had Ambassador Rurarz, who was the Polish Ambassador to Japan who defected to the United States. He made his first public appearance before the Commission chaired by Senator Dole. We also plan to follow that up with a subsequent hearing on April 1 with Ambassador Rurarz where he will detail the Soviet Union's economic corruption of the Polish system and the way they have tried to use the Polish economy to bolster the Soviet Union.

Mr. FASCELL. Mr. Chairman, I, unfortunately, could not make that meeting. That is the reason I wanted Mike Packard to talk about it briefly. Those people who were there were moved by the Ambassador's testimony. That was direct evidence of what is going on. We are now looking at, as Mr. Packard [illegible]inted out, the whole indirect corruption of the economic system that is going on in Poland and probably other Eastern bloc countries. We always suspected it goes on, and what we are doing is a two-tiered effort in Eastern Europe, and we have been kidding ourselves all these years, but we have never been able to actually blueprint the chess moves by which this occurs. We can only suspect.

We hope to have direct testimony on something like that which we think would be very useful in the formulation of our policy.

In addition to following those events, we do our best to follow events in all of the other signatory countries, Mr. Chairman, and we get information from a surprising number of sources that is very good information. Of course, we very carefully double-check it out before we trans-

late it and disseminate it, but we get a lot of information, a tremendous network around the world on people who are trying to help people, particularly those coming out of the Soviet Union.

SUBMISSION OF ANNUAL REPORT

Before I conclude, by law, we are supposed to submit this report to the Congress. This is our official submission of our annual report.

Senator WEICKER. Congressman, thank you very much.

Mr. FASCELL. That and other 5 feet of material we have available for you, we will be glad to present for your files or anything else. If you have to have this much material to support $500,000, God help the country.

Senator WEICKER. My only concern is that we go through an exercise like the Helsinki accords, and we spend $500,000—or spend even $1 through it—and then we go through the situation in Poland, I really wonder what this is all about.

Mr. FASCELL. Senator, you are absolutely right, but I think sometime in our lives we are at a point where we have no choice. We just can't give way to frustration. You have to hope eternally, even though it sounds silly sometimes. But you know what, the only thing that keeps me going on this thing—I need this like a hole in the head, just like you—the only thing that keeps me going are the witnesses who come before our Commission and people I talk to as I travel around in this business who say for God's sake, don't stop, keep it up, keep the pressure on, it's our only hope, it's the only chance we have got. We may not change anything, but we have gotten one way or another, and I don't want this Commission to take credit for this, but one way or another, we in the free world have gotten 250,000 Jews out of the Soviet Union in recent years. That's not bad, if you assume the Soviet Union is h---. And its the same thing in a smaller way with some of the other countries, and so the process goes.

We either believe in what we are doing or we don't. You and I believe in what we are doing, and we are not going to change everybody. It is not going to happen overnight. We are not going to have miracles, and we are not going to nuke them now. Some people think so. That's a poor choice. So what is left to you is that great never, never land in the middle which drives everybody batty.

It is so easy to get on one side or the other and be a big shot.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. I thank you for your detailed report, and I have no further questions. Senator Hollings has some questions which we will submit for the record. Good luck to you.

Mr. FASCELL. Thank you, Senator. Good luck to you.

[The following questions were not asked at the hearing but were submitted to the Commission for response subsequent to the hearing:]

Additional Committee Questions

Q: One of the primary goals of the Commission is to promote wider public understanding of the provisions of the Helsinki Final Act, particularly with regard to human rights. Please describe the extent and nature of CSCE activities, including speeches given and publications distributed. Has a principal target audience been identified?

A: As part of its on-going effort to promote greater public awareness and understanding of the Helsinki process, especially its human rights component, the Commission maintains close working relations with a myriad of private organizations. Commissioners and staff members regularly talk to and meet with representatives of national and local non-governmental organizations (NGOs), attend NGO conferences, meetings and other functions, participate in symposia and panel discussions and deliver speeches at NGO-sponsored events. Included in this NGO community are those groups with religious concerns, ethnic affiliations, civic and educational interests, scientific associations and human rights concerns. Among the national NGOs with whom the Commission works closely are the Ukrainian National Association, the National Conference on Soviet Jewry, the Joint Baltic American National Committee, the Committee of Concerned Scientists, Amnesty International, the International League for Human Rights, Freedom House, Helsinki Watch, the Aspen Institute for Humanistic Studies, the American Jewish Committee, the American Bar Association, the National Council of Churches, and the Council on Foreign Relations. In addition to participating in NGO-sponsored events, the Commission has hosted briefings for NGO representatives in Washington in connection with the Belgrade and Madrid review meetings and plans to continue that practice. NGO representatives are invited to attend Commission hearings and often appear as witnesses or submit testimony at those hearings.

All Commission publications -- press releases, reports, and hearing records -- are regularly mailed to over 2,000 individuals and organizations in the United States and abroad. The CSCE Digest, a bi-monthly compilation of CSCE-related press reports and Commission activities, is distributed to a select mailing list of 600.

For additional information on Commission publications, hearings and other activities in 1981, please refer to our "Annual Report of the Commission on Security and Cooperation in Europe For the Period Covering January 1 through December 31, 1981" which was submitted previously.

Q: The CSCE budget proposal indicates that a senior staff member, on loan to CSCE from the State Department, is researching the emigration and immigration laws of all Helsinki signatory countries, including the "numerous and ever-changing" U.S. laws. Would the U.S. Immigration and Naturalization Service be able to provide substantial assistance in such an effort?

A: The Immigration Service can provide assistance with the U.S. laws and policies but cannot provide in depth assistance with regard to the other Helsinki signatories. There is not one single source where all this information is contained and the other signatories must be researched through various sources such as the Law Library of the Library of Congress, State Department Bureau of Human Rights and Humanitarian Affairs, the State Department Legal Adviser's Office, U.S. Missions abroad and from foreign embassies in Washington. We hope to issue a report next year detailing this information and make it as complete and up-to-date as possible.

But even with regard to the U.S. laws, one must research through and with the Immigration Service's offices to try to keep up with all the policy changes and various laws.

Q: Are there areas which the Commission feels the United States can improve its compliance with the articles of the Helsinki Accords?

A: As part of its mandate the Commission continues to review U.S. implementation with the provisions of the Helsinki Accords which on the whole have been very good. It is planning to do a review of this problem later this year. This review is intended as an update of the two previous reports on U.S. implementation issued by the Commission: the lengthy original report issued in November 1979 and the second, which appeared as a section of the Commission's study on the status of implementation in all the CSCE states, issued in August 1980.

Among the areas cited in these reports where additional improvement is still needed for the U.S. to be in fuller compliance with the Final Act are: U.S. visa laws, education, women's rights, the rights of American Indians, foreign language teaching and ratification of the International Covenants on Human Rights.

* * * * *

Q: With what private organizations has the Commission been working in its efforts to expand East-West economic cooperation? Which of these efforts have been the most successful?

A: The Commission has been working with a variety of private organizations in its efforts to promote Basket II principles of the Helsinki Final Act, which are designed to help promote greater East-West economic cooperation.

Prior to each major CSCE review session, the staff solicits comments from a broad range of U.S. firms involved in East-West trade. Our purpose at this juncture is to provide our negotiating team with ideas which will help facilitate East-West economic cooperation. Responses from the business community to the questionaire are kept confidential in the hope that replies will describe as frankly as possible their business relationship with the East. Corporate participation includes such leaders as the 3M Corporation, RCA, Tenneco, Fluor Corporation, Dow Chemical, Eaton Corporation, Dresser Industries, Celanese, Boeing Corporation, International Harvester, ARCO, Reynolds Aluminum, and many more. Their experiences are then incorporated into U.S position papers on such broad trade practices as the flow of economic data, business conditions, countertrade practices, etc.

In a more formal setting, Commission staff participates, whenever possible, at the U.S. Chamber of Commerce Joint Economic and Trade Councils. These fora again provide staff an opportunity to discuss relevant CSCE principles with the actual business representatives. While the principles of the CSCE Final Act form a springboard for greater East-European cooperation with U.S. companies, our firms use these councils to develop contacts and greater understanding of certain Eastern trade practices, such as countertrade arrangements. These fora provide an opportunity for the East to meet U.S. business representatives away from the watchful eye of Soviet big brother and it allows U.S business to voice whatever concerns may exist with regard to abnormal or undesirable trade practices. Our function at these meetings is to promote the Basket II principles and explain their relevance to expanded East-West trade as well as to let the business community know that the U.S. government can be their advocate in pressing the East for rational and constructive trading practices. Private sector participation at the fora include major U.S. financial institutions such as Chemical Bank, Manufacturers Hanover, Citibank, etc. and medium-sized to large firms either interested in entering or expanding their trade with the East. They include such companies as the Randall Corporation, RDA International, Petroleum Management, Inc., Dresser Industries, Coca-Cola, Ingersoll-Rand Company, General Electric and many more.

In an effort to continually inform the business community, the Commission will sponsor programs, such as the one last March, which bring academic researchers from around the country to discuss Eastern compliance in the area of economic and commercial information. These results are then transmitted to the business community in mailings specifically targeted for this purpose. Finally, our outreach includes participation at such meetings as those held by the Harvard Research Center which address prevalent economic issues that may affect East-West trade. These meetings, held 4 times annually, provide business and government an opportunity to discuss current economic and political developments. Contacts with private organizations help in solidifying an accurate economic approach in multilateral fora such as the Madrid Review Session and the Economic Commission for Europe in Geneva.

The most successful of these efforts has been our close cooperation with the Chamber of Commerce Joint Trade and Economic Councils which provide a broad range of industry representation. Meeting these firms' chief executive officers and exchanging their practical experiences in dealing with the East for our experiences at the government level provides for a greater understanding of the goals set forth in Basket II of the Helsinki Accords as well as the needs of the business community that can be served through the Helsinki process.

* * * * *

Q: Is there a conflict between the Accords' provisions regarding East-West economic cooperation and present U.S. policy on trade with the Soviets? What is the Commission currently advising its audiences in regard to taking advantage of the Accords' provisions?

A: On the surface, it would appear that U.S. policy and trade sanctions against the USSR and Poland would be contrary to the trade promoting aspects of Basket II of the Helsinki Final Act However, it is essential to understand that Basket II, economic cooperation, does not exist in a vacuum. As Basket II is only one part of the Accords, so is economic cooperation one aspect of our international relations and commitments. Extending cooperative arrangements in the field of economics is contingent on growing international conditions which hel preserve peace and security in the European region as well as adherence to basic principles of international law.

In the Economic Commission for Europe, the U.S. delegation very clearly regretted the need to institute economic sanctions against the USSR and Poland, but that given those countries' clear violations of human rights principles and the subsequent threat to the entire CSŒ process, the U.S. was forced into taking appropriate measures. "Business as usual" in the multilateral forum and bilaterally is simply not possible under the present circumstances.

The Final Act must be taken in its entirety. It is extremely difficult to pursue close economic relations at a time of political repression in the East is so blatant. U.S. government policy of economic sanctions is clearly directed towards the Soviet Union and Poland. In that respect, provisions designed to further economic cooperation between the U.S. and the other countries of Eastern Europe should continue. The negative trade practices of the East are still confronted in bilateral and multilateral fora. Each country is treated on an individual basis. Commission practice supports encouraging economic cooperation as part of a package. However, unilateral implementation of Helsinki by the U.S. or the West, cannot lead to peace and security in Europe. The East must be constantly pressured to live up to all the principles of Helsinki, not only those they choose as useful.

Q: What sources of information does the Commission use in monitoring the compliance of the 35 signatory countries with the articles of the Helsinki Accords? Does the Commission routinely get information from the intelligence agencies?

A: The Commission, in carrying out its monitoring functions, utilizes information from a variety of sources. A mechanism has been established whereby the Commission receives, on a regular basis, all State Department telegrams, including confidential and secret messages, dealing with the CSCE process and related issues, including the political and human rights situation in other signatory states. In addition to this mechanism, the Commission receives information from interested non-governmental organizations including numerous ethnic groups who send their publications and other forms of information on a regular basis. Much of this information originates from inside the Soviet Union and other East European nations and is sent either directly to the Commission or is relayed via the NGO group themselves. Through other informed channels the Commission receives reports on the domestic and human rights situation in the Soviet Union and other East European states. In addition, the Commission receives letters and requests directly from citizens in Eastern bloc countries informing us of their plight and requesting help in the solution of their problems (most frequently family reunification problems).

The Commission receives a broad range of newspapers, periodicals and other media reports including those from Radio Free Europe and Radio Liberty concerning the Helsinki process, the situation in Eastern bloc countries, and East-West relations in general. Particularly useful in this respect are the daily surveys of the media in the Soviet Union, Eastern and Western Europe issued by the Foreign Broadcast Information Service (FBIS), of the U.S. Government. Finally, the Commission maintains contacts with and receives regular information from other monitoring groups and parliamentary bodies interested in the Helsinki process, including the North Atlantic Assembly, the Inter-Parliamentary Union (IPU) and the Council of Europe.

While the Commission does not routinely receive information from intelligence agencies, it does maintain contact with and receive periodic briefings from representatives of these agencies on developments in the Soviet Union and East Europe which may have an impact on the Helsinki process.

* * * * *

Q: Has any consideration been given to the question of how much longer the United States will continue to need a separate Commission to monitor compliance with the Helsinki Accords?

A: Although the Commission was the first official body set up by any of the Helsinki signatory governments to monitor and encourage compliance with the Helsinki Accords, it has been emulated by a number of Western countries through the creation of parliamentary commissions and semi-official governmental bodies. There are also a large number of private monitoring groups in all of the larger Helsinki signatory nations. The Commission works closely with all of these groups as well as with the Executive Branch of the U.S. Government. Indeed, the Commission has become an indispensable partner with the State Department in the official meetings which continue to take place as part of the Helsinki process.

It is probable that the Commission will continue to be needed as long as governments of the 35 Helsinki signatory countries continue to view the Helsinki process as a hopeful and viable forum for the reduction of East-West tensions.

Q: To what degree are Western newspapers and other sources of information now available in Poland? Was such information widely disseminated in Poland before martial law was imposed? Compare the availability of Western news sources in Poland with that in other Eastern bloc countries?

A: The Helsinki Final Act calls on signatories to "facilitate the freer and wider dissemination of information of all kinds" cross the borders of their states. Since the signing of the Final Act in August, 1975, Poland had been slowly improving its compliance in the field of information, and, together with Hungary, was considered to have a better performance record than her other Warsaw Pact neighbors. This positive trend was accelerated considerably by the political reforms and social renewal generated by the Solidarity movement. The imposition of martial law has reversed the progress made in recent years.

Following the Gdansk Agreements of August 1980 and before the crackdown of December 12-13, the internal media reflected the pluralistic trends in Polish society. A new bill on censorship of the media and the entertainment industry passed by the Sejm in July represented the Polish Government's first legislative action to implement the human and civil rights pledges in the Gdansk Agreements. Although the bill retained the principle of prior censorship, in practice it significantly expanded the scope of publishable matter. As the Polish economy deteriorated, the availability of Western publications, already limited but certainly more accessible in Poland than in other Warsaw Pact countries, steadily declined, due to the increasing lack of hard currency needed to purchase them. For example, the International Herald Tribune and Newsweek, previously obtainable in small quantities, disappeared from the newsstands. Similarly, shortages of hard currency caused reductions in the number of Western films and television programs that had regularly been bought for presentation by the Polish Government media. Solidarity's access to the broadcast media was quite circumscribed, but the new censorship bill permitted a wider legal circulation of its material. Poles could listen regularly to Western radio broadcasts; large numbers of foreign journalists could enter Poland and conduct their business with little interference; correspondents' access to Solidarity and unofficial dissident sources was not limited; nor was journalists' communication with their home offices impeded.

Today, approximately four months following the declaration of martial law, only official media may operate and they do so under conditions of heavy censorship reminiscent of Stalinist times. Severe penalties await those who attempt to disseminate unofficial information. In March, the Jaruzelski regime disbanded the Association of Polish Journalists, whose membership was overwhelmingly supportive of the reform movement and of freeing the Polish media from party domination. The International Press Institute estimated that there are more than 100 Polish journalists being held in internment camps.

Western correspondents are now able to file film and other dispatches to their parent organizaztions from Poland, but their stories are carefully screened by Polish authorities, who are prepared to expel journalists who write stories that are unacceptable to the regime. Although primarily restricted to Warsaw, journalists do manage to "get around" and on occasion the Polish regime has organized press trips to cities other than Warsaw. Intensive jamming of Radio Free Europe persists. The Voice of America, the BBC, and to a lesser extent, Deutsche Welle, are also jammed but broadcasts do get through. Vatican Radio is not jammed at present. International mail is subject to censorship and deliveries are erratic. Parcel post is limited to food, clothing and medicine, with printed matter specifically prohibited. International calls are permitted for official business only.

Clearly, under martial law, there has been a serious retrogression in the field of information, as there has been in every facet of Poland's political and civil life. Despite the Jaruzelski regime's draconian efforts to control internal instruments of mass information and sever unofficial communication links between the Polish people and the West, it can still be said that the Poles are better informed than are most of their neighbors in other Warsaw Pact countries (with the possible exception of Hungary). This is due to the ingenuity of the Polish people, to the sophistication about the world that they were able to acquire over the past years of freer communication and movement, to sustained Western interest in Polish developments, and to determined Western efforts to get information into Poland.

ARMS CONTROL AND DISARMAMENT AGENCY

STATEMENT OF EUGENE ROSTOW, DIRECTOR

ACCOMPANIED BY:

WILLIAM J. MONTGOMERY, ADMINISTRATIVE DIRECTOR
THOMAS GRAHAM, DIRECTOR, CONGRESSIONAL AFFAIRS

BUDGET REQUEST

Senator WEICKER. We will now consider the fiscal year 1983 appropriations request for the U.S. Arms Control and Disarmament Agency. The amount requested is $19,942,000, an increase of $3,174,000 from the 1982 requested request and provides for 154 full-time, permanent positions, a reduction of 11 from the previous year.

Appearing on behalf of this request is Ambassador Eugene Rostow, Director, who is accompanied by Mr. William Montgomery, the Administrative Director.

Go right ahead.

Mr. ROSTOW. Thank you, Mr. Chairman. It is a pleasure to appear before you. I have a prepared statement which I will submit for the record and just talk briefly to it as long as you wish me to.

I would like to introduce also Mr. Tom Graham who is head of our Office of Congressional and Public Affairs.

INF NEGOTIATIONS

I might start by making a correction in the prepared statement at the top of the third page. I want to conform it, more or less, to the spirit and tone to the testimony I gave before Chairman Zablocki 2 or 3 weeks ago on the INF negotiations in Geneva which are one of our most pressing and important responsibilities.

At the top of that page, we say, "We are not dissatisfied with the negotiations thus far." I would like to change the next sentence to read this way: "The atmosphere is good, although the Soviet Union has not begun to negotiate seriously. On the other hand, on previous forums, we had no expectation that the Soviet Delegation would begin to negotiate until much later in the cycle shortly before our missiles were due to be deployed. We are, of course, still very far apart."

I do that because it is a delicate and sensitive subject, and it is extremely important not to create any false expectations. The negotiations there are perfectly straightforward in their atmosphere, but the Soviet Union is still pursuing things that have nothing to do with serious arms control.

ACDA'S FISCAL YEAR 1983 APPROPRIATION REQUEST

Our appropriation request for fiscal year 1983 is lean. It conforms fully to the policies of the administration and to the Congress with regard to reduction of the budget, and they reflect a substantial reduction in our personnel and in the number of programs we are supporting, especially in the field of research.

There is a nominal increase, an actual increase, in the appropriation request, but that is more than covered by the transfer to ACDA of a program from the Department of Energy. The program is called the reduced enrichment in research and test reactors—RERTR. It is of very great importance to the possibility of success in carrying out our policy against proliferation of nuclear weapons, needless to say. It is an ongoing program. It will no longer be a part of the Department of Energy and will now be transferred to ACDA because of its responsibilities in the field of nonproliferation.

RECENT ACDA ACTIVITIES

Otherwise, I would point out in the 8 months I have been on the job, we have been concentrating on not only staffing and reviewing programs in the arms control field in relation to the evolution of foreign policy, but attempting to make sure the purposes of Congress with respect to the Arms Control and Disarmament Agency are carried out and the arms control policies are fully considered in the making of foreign policy and the execution of foreign policy and that arms control, as a device for achieving the goals of our foreign policy, is fully implemented.

We have, as you know, ongoing responsibilities in a number of areas, and we have been making proposals that have been adopted by the machinery of government for further areas. The biggest problems we face, of course, are in the field of nuclear weapons arms control. There are also programs with respect to the Committee on Disarmament and the mutual balanced force reduction—MBFR—talks, the adaptation of our arms control philosophy to a number of other areas in the United Nations and elsewhere.

We have primary responsibility for a special session of the General Assembly which is coming up this summer on disarmament which will be a very conspicuous political event in which we are hoping to convert into a constructive arms control initiative.

I will be happy to answer any questions. I might mention that we have ongoing statutory responsibilities both in the arms transfer field and in defense program analysis, and that is a substantial amount of work, a substantial part of our budget is involved, and I think there the impact of presenting an arms control point of view about arms transfer and defense programs is a useful feature of the development of our security policy and our foreign policy.

NUCLEAR PROLIFERATION

Senator WEICKER. Obviously the whole area of nuclear proliferation is of enormous concern to the American people. The bilateral nuclear proposals are put out there—and I am one of the sponsors—but, it is really a grassroots exercise. It doesn't belong to a particular philosophy. It is not something that is ancillary to the antiwar feelings that might have come subsequent to the Vietnam war. It is just a very cold, hard look, I think, by very average people on the street as to what is going on in terms of proliferation and its implications.

What I am saying is, it is not a creature of the left or of any other movement other than being a well thought out proposal based on the facts as people dispassionately view them at this juncture.

Now, I gather the administration is opposed to it. But I would like to get your views, not in the sense of being in support of the resolution. It seems to me that in your job this growing understanding of what the stakes are by the people of this Nation would be helpful. If you want to translate it in terms of a power structure even though on the Senate floor, long before the freeze resolution came around, I talked with my colleagues with regard to the MX systems, and other things, and they were asking the question, "Where does all this end?"

So whether we are talking in economic terms or whether we are talking in terms of destruction, I would say there is a consensus that you might just hold the most important job in Government.

Mr. ROSTOW. There is no doubt that it is a tremendously vital problem, a central problem. I fully share your concerns and those of everybody else, and so does the President. So does, I think, the entire country.

I think what I should like to see done, and what I am now working on is the possibility of converting that resolution that was put forward by Senators Hatfield and Kennedy into a resolution that could get unanimous support and powerfully back the President in his arms control initiative. I don't think it is impossible. I think we have two sets of problems here.

I think everybody in the United States understands and the resolution clearly rests on the premise that we must not undertake, we cannot afford to contemplate unilateral disarmament.

Senator WEICKER. We all agree with that.

Mr. ROSTOW. Everybody.

Senator WEICKER. Previous resolutions have done that.

UNILATERAL RESTRAINT

Mr. ROSTOW. We have tried unilateral restraint as a model several times through most of the 1970's, in fact, and it hasn't worked, and you know that.

The difficulty with it, I think, and it seems to me a curable difficulty, is in the freeze element, and I think it can be overcome because as the more I look at this problem, and it is a challenge in my job and I have written a series of speeches trying to analyze this thing in a fundamental way, the essence of the problem, I think, is this, Mr. Chairman, that

some weapons are retaliatory weapons and nothing else, deterrent weapons, and others can be retaliatory weapons but they are also or potentially can be the instruments of a preemptive first strike. As instruments of a preemptive first strike, that doesn't mean that they will be used for a first strike, but it means they will be used as an instrument of political coercion to paralyze diplomatic action, or otherwise.

We are perfectly familiar with the idea from the history of naval warfare, in the old days, if you sent a squadron in somewhere and then the ambassador went to the foreign minister, the naval squadron didn't blow up the port city, but the presence of that squadron was felt in the conversation between the ambassador and the foreign minister. And today we are witnessing, we are living through now a crisis of that character with those tremendous Soviet SS–20 weapons being deployed at the rate of one every 5 days addressed to Europe or equally to Japan or China or the Middle East, but particularly to Europe because of the centrality of Soviet doctrine, creating political waves of concern in Europe at a time when the availability of our intercontinental strategic guarantees are very much in doubt and the American people and the people in Europe realizing the imminent—I say imminence, but the possibilities of war, of nuclear war, are reacting with great concern.

How do we deal with it? It seems to me we ought to be able to find a way to go into detail perhaps along the lines of the suggestion Senator Danforth made the other day. We ought to be able to come together and translate the freeze proposal into something that would be less dangerous because I am convinced at the present time that if we freeze, the Soviet Union would agree immediately but make any serious negotiations about their reductions impossible. It would remove all of their incentives for reducing them. They are very practical characters, and they say what is the alternative if we freeze in our present position. It means the menace of those SS–20's in Europe or the menace of the SS–18 and SS–19 weapons against our intercontinental display remain untouched, unbalanced, and we then, therefore, have to conduct our diplomacy and do our security planning in the shadow of something that might be paralyzed.

So that while we do believe that a freeze element of the resolution in its present form would be a profound mistake from the point of negotiating with the Soviet Union and the experience we have had with those negotiations that we ought to be able to confer and discuss the buys and amends and come out with a resolution with which we can all agree and that will be immensely helpful to the process of negotiation.

Senator WEICKER. I think the message that is being given is that there is an urgency in people's minds that something is happening. We have been through the whole SALT process, and we end up, in effect, with the United States storming out on that one.

I might add, if there had been a vote, I would have voted against SALT II myself because of the verification aspects of it. So I have to ask the question, is there any sense of urgency?

Mr. ROSTOW. Yes.

SENSE OR URGENCY FOR ARMS CONTROL NEGOTIATIONS

Senator WEICKER. Does everybody walk through their role and in the meantime we just grow that much closer to the type of destruction, be it economic or military, that everybody feels?

Mr. ROSTOW. I can assure you, ACDA, and I think the whole Government, is operating under an intense sense of urgency. After all, I am only here—I gave up a most idyllic, utopian academic holiday you can imagine, a final sabbatical in Cambridge, England, in order to take this job. I can just promise you there is an immense sense of urgency. There are two problems that have taken time. One is to get the defense budget turned around, and now, in my own field, the articulation of a carefully thought through philosophy that will prepare us for the START talks and take full advantage of what we have learned from the disappointments in SALT I and SALT II. That has taken time because it would be more foolish to go into those talks without preparation than not to go into them at all. We are at the end of that now, and the executive branch is rapidly approaching final form of a draft, and I think we will be moving forward very soon.

REDUCTION OF ACDA'S FUNDING

Senator WEICKER. Excluding the transfer from DOE, your funding has been reduced by 10 percent in 1983. How are you going to handle everything that is presently underway and begin the START talks at that level?

Mr. ROSTOW. I have been trying to do it without any RIFing, and I think we will succeed. I am not sure we will succeed with the normal attrition, and so on, but we are just chipping away here and there. Perhaps Mr. Montgomery could answer that in more detail.

Mr. MONTGOMERY. Mr. Chairman, I think it is a very tight budget, but we made provisions to fund delegations and the work of the agency at the level of activity as we see it now. That envisions having a START delegation and an INF delegation of about the same size and alternating their discussions in Geneva.

At that level of activity, although we don't have an excess of funds, I think we can do a very good job.

ACDA'S EXTERNAL RESEARCH BUDGET

Senator WEICKER. The Agency's proposed budget for external research programs for nonproliferation is subject to a 70-percent reduction in funding. Why is the funding to be reduced despite your expressed view the nuclear proliferation problems will increase in 1983?

Mr. ROSTOW. We have to accommodate the budget. It is very, very painful, indeed. I was discussing this with Chairman Zablocki of the House the other day. It is highly regrettable.

Senator WEICKER. I think that is what raises a question in some people's minds as to whether there is any urgency or whether there is any commitment. I am not talking about you, I am talking about the administration.

Mr. ROSTOW. As far as policy is concerned, I have no complaints about ACDA being heard or its views prevailing in a reasonable number of cases. I believe that the administration, the President and both secretaries, the Secretary of Defense and Secretary of State, are profoundly committed to arms control.

The suspicion arises and, of course, is carefully fanned if they are not. The proposals of November 18, there will be a corresponding session of proposals, I suppose, before we go into START. They were very well received throughout the world, throughout the free world, as genuine, serious arms control proposals of a radical kind calling for radical reductions. Of course, the President is determined to achieve reduction.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. Thank you very much. Any other questions Senators might have will be submitted to you for the record.

[The following questions were not asked at the hearing but were submitted to the Agency for response subsequent to the hearing:]

Additional Committee Questions

1. Almost 25 percent of ACDA's proposed FY 1983 budget ($4.8 million) is for the Reduced Enrichment for Research and Test Reactors (RERTR) program which is being tansferred from DOE to ACDA. What is the rationale for such a transfer? What is the status of this program and when does ACDA anticipate that lower enriched fuels from the RERTR program will be routinely used by U.S. and foreign research reactor operators? Is it now going to be ACDA's responsibility to "sell" the new fuel developed by DOE?

A. The RERTR program was established in 1978 in support of a U.S. non-proliferation initiative to eliminate where possible the use of weapons usable HEU. Executive Branch agencies which deal with non-proliferation policy, including ACDA, State, and the International Affairs Office of DOE have been responsible for directing the activities of the RERTR effort to support U.S. non-proliferation policy. Because the technical expertise to conduct RERTR activities resides in Argonne National Laboratory, which contracts solely with DOE, and because DOE has the technical manpower to manage such a program, it was decided at the outset to provide funding for the program through DOE's budget. Recently, however, as pressure increased to reduce the Federal budget, competition within the DOE for limited funds has challenged its ability to provide continued support for the RERTR program. Since ACDA has a major role in implementing non-proliferation policy and also has the technical expertise to manage such a program, the decision was made to include the RERTR program at ACDA's budget request.

The RERTR program has now progressed to the point where the irradiation, demonstration and testing of fuels similar in type to the fuels currently in use, but of higher uranium density, is almost completed. Such fuel would permit many of the lower power HEU-fueled research reactors to convert to LEU. For the conversion of higher power reactors a new fuel form, uranium silicide has been developed and small samples of the fuel have been irradiated and tested. A full core irradiation/demonstration of these very high

uranium density fuels is scheduled for the Oak Ridge research reactor, the ORR, in 1984 contingent on the availability of sufficient FY 83 funds. The LEU fuel could technically be used in all but possibly one or two of the world's operating research reactors. If this test is successful, it is anticipated that by 1988 a viable LEU substitute for most research reactors now requiring HEU fuel would be proven and demonstrated.

The RERTR program has gained the support of most of the foreign countries now operating research reactors, including France and the FRG which presently fabricate most of the world's research fuel. Consequently, if this cooperative spirit continues to the conclusion of the program, the worldwide utilization of the new fuel will be a continuation of the cooperative effort.

2. In the past year ACDA has reorganized itself. Describe the reorganization and the rationale for it. What impact has the reorganization had on ACDA's ability to retain and attract high level staff and achieve its arms control objectives? Has the reorganization resulted in a more economical and efficient use of resources?

A. The reorganization of ACDA during the second half of FY-81 and early FY-82 consisted primarily of combining the Non-Proliferation and Weapons Evaluation and Control Bureaus to form the new Bureau of Nuclear and Weapons Control, the creation of the Verification and Intelligence Bureau, the formation of the Office of Congressional and Public Affairs and the establishment of the Bureau of Strategic Programs to carry out the responsibilities of the former Bureau of International Security Programs. During FY-82 we were able to reduce full time permanent employment by 10 positions and this resulted in a savings of salary expenses equal to $238,000.

3. The Reagan Administration has announced the new Strategic Arms Reduction Talks (START) with the Soviet Union. What is the current outlook for these negotiations? Does ACDA's budget request include funds for conducting such talks? How much?

A. We are in the final stages of preparing our position for the START negotiations. We expect that they will begin this summer.

ACDA has budgeted $600,000 for travel, per diem, and miscellaneous expenses that will be incurred for three 8-week START sessions. This figure is exclusive of salary expenses and overall Geneva support of $1.7 million which are included in the FY-83 budget request.

4. What role did ACDA play in advising the President on his "zero weapons option" for the Intermediate-Range Nuclear Forces negotiations?

A. ACDA contributed actively to all the interagency deliberations leading to development of our position for the Intermediate-Range Nuclear Force (INF) negotiations. Moreover, the ACDA Director participated in all the National Security Council meetings on the subject and advised the President on the various elements of the US position, including the "zero-outcome", in accordance with his statutory responsibilities. It would be inappropriate to reveal the substance of these discussions except to observe that ACDA fully supports the US position in INF. It is clearly the preferred outcome for correcting the current imbalance resulting from the threat to Western Europe posed by Soviet long-range INF missiles and their elimination would contribute significantly to stability and security.

5. Excluding the RERTR program being transferred from DOE, ACDA proposed FY-1983 External Research program for non-proliferation is less than one-third the FY-1982 amount. Why is ACDA reducing such funding despite its expressed view that non-proliferation problems will continue to increase during FY-1983? What efforts to improve safeguards are being funded for FY-1983 and how much is being budgeted for each?

A. Although there will be a large reduction in FY-1983 funds for external research in non-proliferation, we now anticipate having available more funds for such research during FY-1982 than originally programmed. This will

permit us to initiate later this year many of the projects that we would not have otherwise been able to do in FY-1983. In addition, we expect that some of the safeguards improvement work previously supported by ACDA external research will now be supported through the Program for Technical Assistance to IAEA Safeguards (POTAS) using Foreign Assistance Act funds.

Taking into account the above points and our deferrel of some of our longer term work, we believe that the reduction in our FY-1983 external research funds will not have a significant effect on progress toward our objectives in the near-term. If such reductions in external research continue beyond FY-1983, they could delay achievement of our objectives.

Since ACDA's external research program to improve safeguards is characteristically a dynamic one, we expect in FY-83 to continue to address problems which are not, or not sufficiently, being addressed in other programs in the U.S. and abroad.

6. ACDA's proposed FY-1983 Budget Submission does not include a breakdown by program of major subdivisions. Please provide a more detailed list of ACDA's major programs and/or functions and the estimated resources needed for each.

A.

ACDA FY-83 Budget Request by Bureau and Office

ORGANIZATIONAL ELEMENT	ITEM	AMOUNT
Office of the Director	Personnel Costs	$ 1,305
	Program Operation	395
	Research	192
	Sub Total	$ 1,892
Bureau of Strategic Programs	Personnel Costs	$ 1,228
	Program Operation	2,739
	Research	360
	Sub Total	$ 4,327
Office of Strategic Assessments	Personnel Costs	$ 175
	Program Operation	232
	Research	---
	Sub Total	$ 407
Multilateral Affairs Bureau	Personnel Costs	$ 1,236
	Program Operation	364
	Research	---
	Sub Total	$ 1,600

ACDA FY-83 Budget Request by Bureau and Office

Bureau of Nuclear & Weapons Control	Personnel Costs	$ 2,097
	Program Operation	338
	Research	5,400
	Sub Total	$ 7,835
Office of Administration	Personnel Costs	$ 1,216
	Program Operation	486
	Research	---
	Sub Total	$ 1,702
Office of Operations Analysis	Personnel Costs	$ 201
	Program Operation	0
	Research	0
	Sub Total	$ 201
Office of the General Counsel	Personnel Costs	$ 346
	Program Operation	151
	Research	---
	Sub Total	$ 497
Office of Congressional & Public Affairs	Personnel Costs	$ 569
	Program Operation	247
	Research	---
	Sub Total	$ 816
Bureau of Verification & Intelligence	Personnel Costs	$ 542
	Program Operation	123
	Research	---
	Sub Total	$ 665
TOTAL		$19,942

7. ACDA's Budget Submission indicates on page 4 that the Standing Consultative Commission (SCC) has abandoned its consideration of questions regarding compliance under the ABM Treaty and the SALT I Interim Agreement on Offensive Weapons. Why would the "absence of SALT II ratification" affect the SCC's work on compliance with the ABM and SALT I treaties? What role is the SCC currently playing?

A. The absence of ratification of the SALT II Treaty does not affect the work of the SCC related to other agreements within its mandate. This includes, in particular, dealing with any compliance questions or related situations which may be considered ambiguous under the ABM Treaty and the Interim Agreement.

The paragraph referred to in the question was incorrectly typed. Its second sentence should read: "In the absence of SALT II ratification, the Commission halted its work on developing SALT II implementing procedures, and continues to consider questions concerning implementation or compliance under the ABM Treaty and the Interim Agreement."

8. What preparations has ACDA made for advising the President and/or Congress on the forthcoming review of the ABM Treaty. How much as been budgeted for such efforts? What studies, if any, has ACDA produced?

A. The ABM Treaty is reviewed every 5 years. The second review will be held in the fall of 1982. Preparation of the US position for the review is being carried out by an interagency group. ACDA has a large share of the workload, and is producing studies on Soviet compliance with the ABM Treaty since it was signed, and on potential issues that the US might raise at the review. This work is being done primarily in the Bureau of Strategic Programs, and the cost is included in the budget for that Bureau.

9. For the past several years, ACDA has been financing the development and demonstration of the REmote COntinual VERification (RECOVER) system to upgrade IAEA safeguards. How much more does ACDA plan to spend on this program? Has IAEA specifically agreed to take over this program and utilize it in applying international safeguards? What arrangements have been made for financing the purchase, installation, operation, and maintenance of the RECOVER system? Has IAEA budgeted any funds for such purposes? To date, has the RECOVER program had any effect on IAEA safeguards practices? At how many safeguarded facilities will IAEA be able to use RECOVER in a cost-effective manner?

A. The objective of the RECOVER program is the improvement of international safeguards through the remote monitoring of safeguards sensors and the secure transmission of safeguards data to central or local IAEA safeguards offices. The potential benefits are in terms of (a) improved effectiveness through the provision of more complete and more timely safeguards data contributing to more reliable and timely decisions by the IAEA concerning the occurrence and non-occurrence of diversions and (b) increased efficiency in the use of IAEA inspector resources by reducing the effort needed for routine monitoring of safeguards sensors allowing the focusing of inspector effort on those situations where RECOVER indicates inspector investigations are needed.

The first major part of the RECOVER program was to demonstrate the concept of monitoring sensors located in a number of different countries (Australia, Bulgaria, Canada, Federal Republic of Germany, Japan, UK, and the US); automatically interrogating the status of these sensors by a central control system located at IAEA in Vienna; electronic transmission of encrypted sensor status information from these countries to the central system; and computer processing and display of this information by the central system, including automatic alarms when sensor and communication malfunctions occurred.

The demonstration of this prototype system, which began in October 1980, has confirmed the feasibility of reliable and timely transmission of encrypted data on the status (correct functioning or malfunctioning, e.g., battery failure) of sensors and of automatic interrogation, processing, and display by the central unit. The central unit in the prototype system was designed with limited capacity and will need to be expanded for an operational system.

Parallel with the effort to expand the capacity of the system additional development and testing of interfaces for containment and surveillance sensors is needed. At the present time ACDA is in the process of turning over to the IAEA for testing an interface system for remotely monitoring film camera surveillance units and an improved fiber optic seal. Indigenous efforts on development of remote monitoring capability compatible with RECOVER are also taking place in Japan, Canada and the Federal Republic of Germany. And ACDA is examining the possibility of a remote monitoring capability for the advanced TV system that has recently been developed by the Sandia Laboratory.

Added to the current work on RECOVER, funded from ACDA'S FY-81 budget, will be at least $100,000 from FY-82. We have also received indications from the Nuclear Regulatory Commission of their desire to assist in this effort. In addition, foreign support from Japan, Canada and the Federal Republic of Germany is expected to increase in FY-83.

A demonstration of inspector data transmission application is to begin shortly and will not require additional funding. Operational use of this application is not expected to require further development work of the field unit but some work will be needed to improve the efficiency of data transmission. The costs for needed increases in the capacity of the central unit for this additional capability are included in the development of an operational central unit for IAEA headquarters in Vienna within an estimated development cost of $400,000 over 2 years. There will also need to be software development work for the processing and management of the inspection reports at the central unit and associated data storage, but cost estimates depend on further definition by the IAEA of the needed procedures.

At all stages during the development of the RECOVER system the IAEA has been extremely cooperative, with the reasonable reservation on implementation pending the favorable resolution of the technical, economic and country acceptability problems. At the present time the RECOVER program is in the Division of Development and Technical Support in the Department of Safeguards at the IAEA. The Division Director has appointed a RECOVER project director who is assisted by a cost-free expert provided by the U.S. POTAS program. The IAEA has also provided a RECOVER office which contains the central facility equipment. This office is visited frequently

by visitors to the IAEA and demonstrations of the system are performed regularly.

The actual implementation costs over and above the development monies already mentioned will primarily involve the equipment at individual facilities and will probably be a gradual process of installation. Much of the effort in this year's program will be devoted to determining how RECOVER can be integrated into the safeguards plans for specific facility types and what the equipment needs will be. A meeting has been called by the IAEA on June 21, 1982 of the representatives from countries participating in the RECOVER test program. The future course of the program will be a major topic for dicsussion.

To date the RECOVER program has not had any effect on the safeguards practices since thus far it has been limited to a test and demonstration system. However, a recent analysis of the RECOVER system by the Brookhaven National Laboratory found that remote monitoring could be beneficial and cost-effective in the safeguarding of fast critical assemblies, on-load power reactors such as the CANDU, and inactive plutonium and HEU stores. With improved sensors the cost-effectiveness of RECOVER could extend to other types of facilities beyond those identified by the Brookhaven report. Moreover, it should be noted that Brookhaven addressed only the cost-effectiveness of RECOVER and not the potential for improved credibility of effectiveness and efficiency of the safeguards. The number of facilities at which remote monitoring could be used is many tens of facilities based on the Brookhaven report alone. The potential number of facilities could be several hundred.

10. ACDA's Budget Submission indicates that the Mutual and Balanced Force Reductions (MBFR) negotiations are expected to proceed as usual. After 9 years of negotiating, is there any anticipation that some progress will be made and that an agreement can be reached within the next year? Please describe ACDA's efforts in furthering the MBFR negotiations. Does ACDA maintain a full staff and have a special office in Vienna for the MBFR negotiations? Approximately how much time and effort is being expended in preparing for and managing US activities associated with these on-going negotiations? Does ACDA or another agency bear the principal costs of US participation in MBFR-related activities?

A. After nine years of negotiations, it is not possible to be optimistic that an agreement can be reached within the next year. However, the Administration has put priority on revitalizing the negotiations, and a period of marked activity is expected. ACDA has spearheaded the inter-agency development of a new Western proposal that should be tabled by the Western Allies in Vienna sometime this summer. This proposal will be the result of a year's intensive review by this Administration of US MBFR policy and is designed to bring about militarily significant reductions on military forces in Central Europe.

Both Allied and Eastern representatives in the negotiations have indicated that visible ACDA participation in the negotiations is considered by them as indicative of serious US interest in the MBFR negotiations. In February, the ACDA Director visited the negotiations to reaffirm US interest.

As "secretariat" for the interagency MBFR community, ACDA prepares and coordinates US guidance to US Mission NATO and to the delegation in Vienna, and, in addition, takes the lead in preparing position/issues paper for the development of US MBFR policy. For these talks, ACDA has three officers working full time on the MBFR negotiations, and maintains an office in Vienna headed by a senior ACDA representative to the delegation.

ACDA assumes much of the costs for its own participation in MBFR-related activities, for example, the costs of its representative to the US delegation in Vienna. However, by special agreement, State assumes most of

the costs of US participation in the talks, for example, the US share of NATO expenses for the conference site.

11. There is no mention of a Comprehensive Test Ban (CTB) Treaty in the ACDA's FY-1983 Budget Submission. Last year, ACDA testified that CTB was under very intensive review and reconsideration, but that the Agency was not moving forward with CTB at that time. Has ACDA concluded its CTB review and, if so, what were its conclusions? What is the current status of the CTB concept?

A. This Administration is determined to do all that is possible to reduce and eliminate the threat of nuclear war, and in the area of arms control the measures which will be most effective at the present time are agreements with the USSR to limit and reduce intermediate range nuclear weapons and strategic nuclear weapons.

At the same time the Administration recognizes the importance attached to a comprehensive test ban, and continues to support the long-term objective of achieving an effectively verifiable CTB. In this regard, the United States has agreed to the establishment of an ad hoc working group in the Committee on Disarmament with the task of discussing and defining those issues relating to verification and compliance which must be dealt with in the first instance if progress is to be made toward a nuclear test ban.

12. What is the present status of ACDA's efforts to advance negotiations or international agreements on the following:

a. controls on chemical, biological, and radiological warfare;
b. outer space warfare; and
c. hostile use of environmental modification techniques?

A. a and c. The development, production and stockpiling of biological weapons are already prohibited by the 1975 Biological and Toxin Weapons Convention. Our principal effort in this area now is aimed at resolving concerns about Soviet compliance.

The United States supports the objective of a complete and verifiable prohibition of the development, production, and

stockpiling of chemical weapons. We are participating actively in the discussions of such a ban in the 40-nation Committee on Disarmament in Geneva. Rapid progress is not expected, however, because of Soviet intransigence on key verification issues.

A ban on possession and use of radiological weapons is being elaborated by the Committee on Disarmament. The ban is based on a joint initiative submitted by the U.S. and Soviet Union in 1979.

The "Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques", sometimes called the Enmod Convention, was signed by the United States on May 18, 1977. It entered into force October 5, 1979, following US Senate advice and consent November 28, 1979. US instruments of ratification were deposited at New York January 17, 1980, and the Convention entered into force for the US on that date.

b. The US has sought in the past through such major agreements as the Limited Test Ban and Outer Space Treaties to limit arms in space. At the same time the Administration continues to be deeply concerned about the scope of Soviet offensive space programs. Space arms control policy is currently undergoing careful interagency study within the US Government.

The US supported a resolution, sponsored by Allies, in the 1981 General Assembly session that requested the Committee on Disarmament to consider the question of negotiating new agreements on outer space arms control, particularly a ban on ASAT systems, and participated in the ensuring discussions at the spring 1982 CD session. As part of the review process, ACDA is conducting studies of technical space arms control issues, such as problems of verification of specific potential limits on space weapons.

13. A program for the development of nuclear cargo tracking capability, the Transport by Sea Verification System, is in its second year of funding by ACDA.

The Japanese have agreed to assume support for implementation of the System, and have allocated $500,000 in their 1982 budget to continue the program contingent on prior US allocation of at least the same amount.

What is the present status of the program?
How much have you allocated for the program in FY-1982?
Is funding requested for this item in your FY-1983 budget?

A. The ACDA/NRC jointly sponsored research on the TRANSEAVER project to date has produced a conceptual design for the system and detailed design specifications for all the system components. The next step is to construct and test a complete system which could be used on a sea shipment of nuclear material. The estimated cost of this would be $450,000.

For FY-82 ACDA is actively pursuing the possibility of a cooperative funding effort with USG agencies, (DOE, DOD, State, NRC) concerned with the security of nuclear materials to supplement available ACDA funds, which could be as much as $300,000 dollars. Because of the schedule required for this phase to mesh with the Japanese program, it will be necessary to fund this phase with FY-82 funds. Hence, it is anticipated that no FY-83 ACDA funds will be required for TRANSEAVER.

BOARD FOR INTERNATIONAL BROADCASTING

STATEMENT OF FRANK SHAKESPEARE, CHAIRMAN

ACCOMPANIED BY:

WALTER R. ROBERTS, EXECUTIVE DIRECTOR, BOARD FOR INTERNATIONAL BROADCASTING

ARTHUR D. LEVIN, FINANCIAL MANAGER, BOARD FOR INTERNATIONAL BROADCASTING

WILLIAM A. BUELL, VICE PRESIDENT, U.S. OPERATIONS, RADIO FREE EUROPE/RADIO LIBERTY, INC.

MICHAEL R. MARCHETTI, TREASURER AND COMPTROLLER, RADIO FREE EUROPE/RADIO LIBERTY, INC.

PREPARED STATEMENT

Senator WEICKER. The next request is that of the Board for International Broadcasting. The amount requested is $95,884,000, which includes $1,334,000 for BIB purchase and RFE/RL installation of four new 100-kilowatt transmitters to replace eight antiquated 50-kilowatt transmitters of Radio Free Europe/Radio Liberty sites in West Germany. The requested $8,031,000 increase in operating funds will provide for eight permanent BIB positions and the grants to Radio Free Europe and Radio Liberty.

Appearing on behalf of this request is Frank Shakespeare, who will introduce those who accompany him. You may submit your statement for the record. Go ahead and summarize or handle this anyway you want.

[The statement follows:]

STATEMENT OF FRANK SHAKESPEARE

Mr. Chairman, I appear before this subcommittee in support of the administration's funding request for fiscal year 1983 for the Board for International Broadcasting, including grants to Radio Free Europe/Radio Liberty.

The request is for $95,884,000. It is based on projected foreign exchange rates of 2.22 West German marks, 64.19 Portuguese escudos, and 94.90 Spanish pesetas to the dollar. Three-fourths of RFE/RL expenditures are in marks, and an additional 10 percent in the other European currencies.

At constant exchange rates, this request represents a 9.4-percent increase for RFE/RL over the level provided in the fiscal year 1982 continuing resolution—which was $86,519,000.

Nearly all the increase is required to meet projected inflation. The administration's estimates are based on the projections of the Wharton econometrics model. The estimates are for wages to rise 6.2 percent and prices 4.5 percent in the Federal Republic of Germany; 22.4 percent and 15 percent respectively in Portugal; 12 percent and 11.1 percent respectively in Spain; and 4.8 percent and 9.1 percent respectively in the United States. The wage component of these estimates is the more significant, because personnel compensation—including salaries, social security taxes, pension payments, housing, and other fringe benefits—accounts for three-fourths of regular operating expenditures.

As of December 31, 1981, RFE/RL had 1,673 permanent employees on board. Of these, 1,139 were working in West Germany, 275 in Portugal, 139 in Spain, 32 in other European countries (mainly news centers), and 88 in the United States. The fiscal year 1983 request provides for a small increase to 1,699 permanent employees. This would still be below the level at the end of fiscal year 1979.

Relatively speaking, the largest single increase in the operating budget is in the technical category—that is, in transmission costs. The increase primarily reflects the commissioning and operation of 11 new 250-kilowatt transmitters—4 in West Germany, 7 in Portugal. Higher energy costs at all sites are also involved.

The request includes one significant capital-replacement item. To complete the modernization of our oldest transmitter sites, at Biblis and Lampertheim in Germany, $1.3 million is requested for the purchase and installation of four new 100-kilowatt transmitters to replace eight antiquated 50-kilowatts. A Presidential study 5 years ago identified 100 kilowatts as the minimum power level suitable for international broadcasting in contemporary conditions.

There is no request this year for additional funds to replenish our reserve fund which protects against adverse foreign-exchange fluctuation. At the start of the current fiscal year, $3,395,000 was available in the fund for such contingencies, and thus far this year the dollar has been maintaining levels somewhat higher than the budgeted exchange rates. In the event that there is an overall currency gain at the end of the year, any such windfall will, of course, lapse in accordance with the law and with the regulations adopted by BIB and OMB.

This fiscal year 1983 request is within the level of $98,317,000 provided in both the Senate and House versions of the authorization bill, now awaiting conference. We understand that such a conference may take place shortly after the Easter recess.

INTRODUCTION OF ASSOCIATES

Mr. SHAKESPEARE. Mr. Chairman, I have with me a number of officers from Radio Free Europe and Radio Liberty. On my right is Walter Roberts, who is the Executive Director of the Board, and on my left is Arthur Levin, who is the BIB Financial Manager. There are other people present in case questions arise that I cannot fully answer, since I have only been in this position for 11 weeks and since my knowledge of certain details is somewhat limited.

OUTLOOK FOR FUNDING

Just as an aside, I wanted to comment that I have a 16-year-old daughter, and she reads her horoscope each morning in the newspaper. I never read horoscopes. This morning by sheer coincidence I was going through the newspaper and read my horoscope, which I take the liberty of reading to you. It says, "Delay is temporary. Funding will become available in surprise manner. You will find ways to improve public relations and to increase the popularity of the product." That is one I am going to save.

Senator WEICKER. We can make that a part of the record.

OPENING STATEMENT

Mr. SHAKESPEARE. Other than my formal statement, I would like to make a general observation. This proposal for $95 million, Mr. Chairman, is 9.4 percent more than last year. That is unusual in the present situation of the country where almost all nondefense related budgets are being reduced.

In our case, that $95 million is essentially a treadmill budget because it is premised on projected inflation rates where we spend our money, which is essentially West Germany, Spain, and Portugal, and on increased power as a result of the installation of the new 250-kilowatt transmitters.

The several of us who are new Board members have visited the RFE/RL Broadcast Center in Munich and have come away with the feeling that additional funding beyond this level would be in the national interest. We are now in the process of proposing that within the administration, and it is possible if the administration agrees that we may be coming back before you and the House of Representatives Appropriations Subcommittee with a modification to this fiscal year 1983 budget request.

NEED FOR REPLACEMENT OF SOME TRANSMITTERS

Senator WEICKER. You are requesting $1,240,000 for a transmitter purchase next year. Can that purchase wait for another year?

Mr. SHAKESPEARE. The $1,240,000 is for——

Mr. ROBERTS. For replacement of transmitters in Biblis and Lampertheim.

Mr. SHAKESPEARE. We have had at three transmitting sites in West Germany antiquated equipment which is generally 30-years-old, and our general engineering estimate is that those should be upgraded as promptly as we can, Mr. Chairman.

RFE/RL SALARY AND ALLOWANCE REFORM

Senator WEICKER. The BIB's 1982 annual report stated that GAO's 1976 and 1981 reports on Radio Free Europe/Radio Liberty management offered a number of valuable suggestions for reforming salary scales and various fringe benefits, but implementation of these suggestions has been a slow process.

What reforms have been instituted, and what has caused the delays?

Mr. LEVIN. There is ongoing work, Mr. Chairman, as far as salary reform is concerned. There are certain employees still on several of the pay scales yet to be merged into the others.

As far as the housing situation is concerned, this is being studied. Hopefully, down the road a bit we might be able to obtain some phasing money to phase out the company-provided housing in favor of housing allowances. It is a matter, frankly, of having other things which must come first, but we have hopes that the company in the near future will be getting out of the housing business and that all employees who now receive company housing will be receiving housing allowances instead.

PROJECTED FOREIGN CURRENCY GAIN

Senator WEICKER. The strength of the dollar against the mark, escudo, and peseta enabled us to offset your appropriation requirement last year. Given the fact that the dollar is still strong, what do you estimate the currency gain will be for fiscal year 1982?

Mr. LEVIN. Mr. Chairman, through the 28th of February of this fiscal year, a gain very close to $525,000 had been realized. We can safely predict that if the present trend continues, there will be a gain in excess of $2.8 million by the end of the fiscal year.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. I have no further questions. There are some others I will submit to you for the record. Otherwise, that should do it.

Mr. SHAKESPEARE. Thank you, sir.

Senator WEICKER. Thank you very much. Good to have you.

[The following questions were not asked at the hearing but were submitted to the Board for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

Jamming of Broadcasts

QUESTION:

Your justification refers to the fact that jamming of radio broadcasts has increased recently. To what extent is jamming occurring today? Where is it most serious? And, what are the Radios doing to respond to this?

ANSWER:

Jamming of Western broadcasts to Eastern Europe and the U.S.S.R. has become considerably more severe in the last two years. In August 1980, the Soviet Union resumed jamming of Voice of America, BBC and Deutsche Welle broadcasts to the U.S.S.R. for the first time since 1973. Czechoslovakia and Bulgaria soon followed suit. In December 1981, Soviet and Czechoslovak transmitters began jamming Radio Free Europe, Voice of America and BBC broadcasts to Poland as well. Only Hungary and Romania are now free of jamming.

RFE/RL attempts to cope with jamming by use of multiple frequencies (at least four are used simultaneously on each language service being jammed); by higher transmitter power (using the 11 new 250-kilowatt transmitters installed during 1981); by frequency coordination with other Western broadcasters; and by scheduling that attempts to take advantage of the so-called "twilight immunity" effect, in which skywave jamming is relatively ineffective during certain early-evening periods.

QUESTION:

Finally, can you tell us something of your audience today? What portion of the population do you estimate your broadcasts are reaching in Eastern Europe and Russia?

ANSWER:

Radio Liberty estimates that about 7.2 per cent of the Soviet population tunes into its broadcasts in the course of a typical week. Radio Free Europe audiences are estimated at about half the adult population in non-jammed environments (Hungary and Romania) and about a third of the adult population where there is severe jamming (Czechoslovakia and Bulgaria). Because of the more intensive jamming that began in Poland last December, we do not yet have reliable up-to-date estimates for the audience in that country, which surpassed 60 per cent before the intensive new jamming began.

Questions Submitted by Senator Ernest F. Hollings

Currency Exchange Rates

Last year Congress took advantage of the gain in the exchange of the dollar for the foreign currencies that RFE/RL requires. This enabled a nearly $12,000,000 decrease from President Reagan's original request without any sacrifice in program. The exchange rates as of March 22, 1982 are much higher than the rates used in the 1983 estimates.

QUESTION:

What average exchange rates did the BIB use for the fiscal year 1982 operating plan, and how does that compare to the current rates?

ANSWER:

The fiscal year 1982 operating plan was based on rates of 2.25 West German marks, 61 Portuguese escudos and 89 Spanish pesetas to the dollar. As of March 24, 1982, the rates were 2.357 marks (90-day futures), 70.5 escudos and 105.47 pesetas.

QUESTION:

If the March 22, 1982 rates were to stay current through fiscal 1983, how much could the appropriation request be reduced without affecting the program level?

ANSWER:

We believe that this computation should be made as late as possible in the legislative schedule, because most economists believe that the current high dollar rates will decline once U.S. domestic interest rates come down. The exchange rates set for the fiscal year 1983 budget request were based on the assumption that interest rates would in fact decline significantly in the course of this year. However, should the March 24, 1982 exchange rates continue to prevail throughout the remainder of fiscal year 1982 and throughout fiscal year 1983, the dollar saving would be approximately $5,400,000.

Program Management

Based on statistics in the BIB 1982 Annual Report, it appears that the Russian Service requires a disproportionate share of staff to produce first-run programs than some of the other large services--Polish, Czechoslovak, Hungarian and Romanian.

QUESTION:

What are the bases for determining the number of staff required to produce a one-hour, first-run broadcast? What are the bases for staffing a service? Are these uniform for the large services? Are different standards used for the smaller services?

ANSWER:

Staff patterns emerged at RFE and RL historically, with different procedures and experiences. The Russian service, for example, served for many years as a central news and feature service for non-Russian nationality services at RL; it also provided production services for these other desks. Since consolidation of RFE and RL in 1976, Russian service staff has been reduced from 120 to 105, but during the same period first-run program output has been significantly increased. Fresh ten-minute newscasts, for example, were increased from eight to 18-19 a day, and their high quality has been affirmed by independent evaluators (which was not the case before consolidation). In short, the disparity

in productivity between the Russian service and major East European services which was evident in 1976 has been greatly reduced.

To produce an hour of first-run programming, anywhere from eight to twelve permanent employees are required -- depending on the nature of the programming. Fewer people are needed for music programs, or for simple translations of centrally-provided news and feature material, than for the type of expert independent news analysis and commentary which RFE/RL strives to provide.

QUESTION:

Has BIB initiated an independent study to review RFE/RL position management as a means to promote efficient use of staff resources?

ANSWER:

Toward the end of his four-year term as BIB Chairman, Dr. John A. Gronouski contemplated initiation of such a position-management study, but it was agreed that a study of pension and termination liabilities, and pension funding generally, was more urgent. We expect that the matter will be reviewed at an early opportunity.

* * * *

GAO recommended in its 1981 report on "Improvements Made, Some Still Needed in Management of Radio Free Europe/Radio Liberty" that the policy assessment and program evaluation of functions of RFE/RL's Broadcast Analysis Department be strengthened.

QUESTION:

What actions have been taken to implement the GAO recommendation to strengthen the Broadcast Analysis Department?

ANSWER:

The GAO recommendation was discussed at some length by the Board. The initiative now rests with management.

QUESTION:

Is the Department independent of program management? If not, how can the Department be an effective element in assuring that broadcasts comply with RFE/RL policy guidelines?

ANSWER:

The Broadcast Analysis Department is independent of the individual language services, and reports to the Executive Vice President for Programs and Policy. The Department's work has been very effective, although there may well be room for improved procedures.

Technical Expansion

BIB's 1981 Annual Report stated that efforts were underway to acquire new transmitter capability to broadcast to Central Asia and Kazakstan.

QUESTION:

What is the status of this effort? Are you looking for a location to build a new transmitter site, or are you seeking to buy time from another international broadcaster? What are the estimated costs to increase broadcast capabilities to Central Asia and Kazakstan?

ANSWER:

Discussions continue with interested governments in the area. They have centered on both possibilities -- buying time and building new facilities. Unfortunately, there is very little prime time to buy from broadcasters in the area. Our ballpark estimate for a new site is $50 million. However, this will be refined once discussions become more detailed.

QUESTION:

The Voice of America has plans to expand its transmitter facility in Sri Lanka to improve coverage of South Central Asia. Has the U.S. Government approached the Government of Sri Lanka about the possibility of either collocating RFE/RL transmitters with those of the Voice or sharing the Voice's transmitters?

ANSWER:

Transmitters in Sri Lanka are too far away from Soviet Central Asia for RFE/RL purposes.

* * * *

In 1981, GAO reported, based on an apparent need for additional large capital investments for both RFE/RL and the Voice of America, that a broad-based Government study of the future of U.S. international broadcasting activities was warranted.

QUESTION:

Has any effort been made to initiate such a Government-wide study dealing with the issue facing the future of U.S. international broadcasting, i.e., advancement in technology, access to desirable transmission locations, political issue associated with "free flow" of information, U.S. foreign policy needs?

ANSWER:

We understand that a Government-wide study along these lines has been initiated under the direction of the National Security Council.

QUESTION:

If there is no Government-wide study, has BIB initiated a study to define the future needs and direction of RFE/RL?

ANSWER:

In 1979, the BIB prepared a long-range study of future transmission needs, which was summarized in our Sixth Annual Report. The FY 1983 request for funds to replace eight old 50-kilowatt transmitters with four new 100-kilowatt transmitters is one of the elements emerging from that study, as are our current discussions about a Middle Eastern site.

BIB Technical Oversight

The position of the Director of Engineering for BIB has been vacant since mid-1980.

QUESTION:

Do you have plans to fill the position of Director of Engineering? If this is a needed position, explain why it has taken so long to fill.

ANSWER:

We expect to fill the position. The delay was caused by the fact that the terms of three Board members expired in the spring of 1980, and their successors were not all nominated, confirmed and sworn in before January 1982.

QUESTION:

In the interim, what arrangements have been made to carry out the responsibilities of the position? Explain the details of any arrangements including costs.

ANSWER:

In the interim, the former incumbent of the position, George Jacobs, has served as a technical adviser on a part-time basis, on an average of two days a week at the appropriate per diem rates.

RFE/RL Pensions

QUESTION:

Did the Board's 1983 request to OMB include any funds to improve the pensions of former RFE/RL employees?

ANSWER:

The Board requested $6.2 million for this purpose.

QUESTION:

What is the Board's position with regard to recomputing these provisions?

ANSWER:

We are prepared to recompute these provisions at current exchange rates at any time that the Committee wishes to consider appropriating the needed funds above and beyond the RFE/RL operating budget.

SUBCOMMITTEE RECESS

Senator WEICKER. The subcommittee will recess until 9:30 tomorrow morning, at which time we will hear from the International Communication Agency and the Chrysler Loan Board.

[Whereupon, at 10:18 a.m., Wednesday, March 24, the subcommittee was recessed, to reconvene at 9:30 a.m., Thursday, March 25.]

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

THURSDAY, MARCH 25, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:50 a.m., in room S–146, the Capitol, Hon. Lowell P. Weicker (chairman) presiding.

Present: Senator Weicker.

INTERNATIONAL COMMUNICATION AGENCY

STATEMENT OF CHARLES Z. WICK, DIRECTOR

ACCOMPANIED BY:

PAUL HILL, CHIEF, AGENCY BUDGET PRESENTATION AND SYSTEMS DIVISION
RONALD L. TROWBRIDGE, ACTING ASSOCIATE DIRECTOR FOR EDUCATIONAL AND CULTURAL AFFAIRS
TERRENCE F. CATHERMAN, ACTING ASSOCIATE DIRECTOR FOR BROADCASTING
VICTOR H. LI, PRESIDENT, EAST-WEST CENTER, INC.
STANLEY M. SILVERMAN, AGENCY BUDGET OFFICER

BUDGET REQUEST

Senator WEICKER. Our first request is that of the International Communication Agency. A total of $640 million and 8,184 positions is requested for fiscal year 1983, an increase of $151,034,000 over the 1982 level.

Appearing on behalf of these requests is Charles Z. Wick, the Director. I would have you introduce your associates with you, and we will certainly have your statement in its entirety placed in the record and you may deliver it anyway you feel fit.

Let me say it is a great pleasure to have you here this morning.

Mr. WICK. Thank you, Mr. Chairman.

On my far left is Paul Hill of our Financial Department, working with Stanley Silverman, who is head of that department. On my immediate right is Dr. Ronald Trowbridge, who is head of our Educational-Cultural Department; and then second from the end on my right is Terrence Catherman, the Deputy Director of Voice of America. Then on the far right position in this assemblage is Dr. Victor Li of the East-West Center.

PREPARED STATEMENT

Thank you, Mr. Chairman, I appreciate the opportunity to place in the record my comments. I have reduced them, and in the interest of time I think we will set forth the areas to which we have been addressing ourselves.

[The statement follows:]

STATEMENT OF CHARLES Z. WICK

I am pleased to be here today to present the appropriation request for the U.S. International Communication Agency for Fiscal Year 1983. The request totals $640 million, an increase of $151 million over the amount enacted under the Continuing Resolution (P.L. 97-92) for fiscal year 1982. Before discussing the details of this request, I would like to review with you my first year as Director.

I appear before you today with a sharpened sense of urgency and responsibility, for I believe that during the past year we have been witness to certain developments which make our discussions of the work of the International Communication Agency this morning of greater than normal importance.

The past year has been one of beginning for the Reagan Administration and for us at the International Communication Agency as stewards of America's overseas information and cultural efforts. It has also been a tumultuous and challenging period throughout the world.

It was a year that saw attempts on the lives of President Reagan and Pope John Paul II. It was a year that witnessed the assassination of President Anwar Sadat. It was a year of mounting violence in Central America, particularly El Salvador, and a menacing move in neighboring Nicaragua toward a decrease in human rights. In Poland we saw a year-long flowering of human freedom crushed in a few days by the imposition of martial law. In Afghanistan we see the continuing and cruel occupation by the Soviet Union of a defenseless land and a war on a people who keep fighting for freedom despite the impossible odds against them.

The past twelve months have also seen the President lay out a dramatic proposal for the reduction of nuclear arms by the United States and the Soviet Union, a proposal which changed the character of the debate about the awful tools of destruction which haunt our world.

The year has also seen developments in our own domestic economy which make it more essential than ever that we as public officials do everything we can to assure the wisest commitment of the taxpayer's dollar. Where possible, we have extended our reach by seeking the assistance and support of the American private sector in our work around the world.

It is in the perspective of those developments that I should like to review with you the purposes, activities and resources of the International Communication Agency.

The success of our nation in the international arena depends on how well our actions and intentions are understood by the rest of the world. We must make clear where we stand on the major issues and developments of our time. We must also affirm the ideals and values which underlie our national purposes. We must express our confidence as the leader of those who enjoy freedom, and our pride as the inspiration of those who yearn for freedom.

The International Communication Agency plays a central role in the conduct of our foreign policy. We strengthen foreign understanding and support for this nation's policies and actions. We counter hostile attempts to distort or to frustrate our nation's policies and objectives. We advise the President, the Secretary of State, and other key officials of the views of foreign publics regarding current and proposed policies. And we promote and administer this country's educational and cultural exchanges to further our national interests and to increase understanding between the people of the United States and the peoples of other lands.

In carrying out these tasks, we rely on our overseas officers' personal contact with influential leaders; on our Wireless File which sends policy statements and background materials to 159 of our posts; on the Voice of America which carries this country's message to 100 million people weekly; on films, videotapes and satellite television transmissions; on our nine publications which are published in 20 languages; on exhibits which reach over 2 million people yearly; on American centers, libraries and reading rooms in 87 countries; on the teaching of English and the promotion of American studies; and on the promotion of the best of America's performing and fine arts around the world.

President Reagan said during his campaign that he intended to strengthen the International Communication Agency and the Voice of America. When the President appointed me to head the Agency, he asked me to bring together the best minds available, from both inside the government and out, and make the International Communication Agency an

even more effective and indispensable part of this country's national security structure.

In general, Mr. Chairman and Members of the Subcommittee, I am pleased with the progress we have made toward fulfillment of the President's mandate. Certainly we have our fair share of remaining problems, and as I will indicate, we have much work yet to do in the coming year and beyond. But I believe I can report to you today that we have come a long way toward establishing the kind of vigorous organization that the President had in mind when he spoke during his campaign eighteen months ago.

During the past year we have made many changes in the Agency and have undertaken many initiatives, which I want to review with you now. But in one area there has been no change. In all that we do to serve the national interest in the International Communication Agency, we operate on the principle that the United States must speak the truth clearly, vigorously and above all, persuasively.

The first area in which we have made important strides over the past year lies in the re-positioning of the Agency as one of the first line members of the President's foreign policy team. I have been told that never before has this Agency been as closely involved in the formulation and execution of policy as it is today. Probably for the first time ever, we are in constant, daily contact with the White House, the State Department, the National Security Council and the Department of Defense. Now, we can obtain important policy information for our people to be able to do their job of explaining policies, persuading others around the world of the merits of our view, and countering false or hostile information concerning our actions and policies.

Mr. Chairman, my analysis over the past year of the position of the United States in the world today persuades me that we are involved in a war of ideas and of credibility. Our adversary is the Soviet Union, and our weapon is the truth. I say that not out of any wish to unduly alarm nor to overstate my case, but merely to present a simple fact of international life. In this war of ideas, the International Communication Agency is on the front line. The President has instructed us to speak forcefully about our policies and ideas, and

about the many attacks on human freedom that occur daily in so many parts of the globe.

Under Project Truth, a U.S. government-wide effort coordinated by our Agency, we are refuting the massive Soviet campaign of disinformation and misinformation about us and our intentions in the world. The Soviets have, for example, accused us of responsibility for the attempt on the Pope's life; they have said that we seek to make Western Europe a nuclear battleground in order to destroy European industry and make way for our own; and they have perpetrated many other rumors and lies. I will agree with you that these stories are preposterous, but they are also effective in altering perceptions of the United States. In Western Europe, for example, where I was recently struck by the serious erosion of support for NATO, there is a whole new generation -- the successor generation -- that knows nothing of America's role in the Normandy landing, the Berlin airlift, or of the need to remain strong in the face of Soviet expansionism.

We are trying to reach that generation of people in Europe and elsewhere through Project Truth, and we are doing so through our monthly Soviet Propaganda Alert, through a fast disinformation response service to specific posts, and through Dateline America which provides our posts with positive, upbeat material about America. I am pleased to be able to tell you, Mr. Chairman, that Project Truth is being administered through existing staff and resources and does not entail new expenditures of funds.

As the U.S. Government's only means of daily, direct communication with the peoples of the world, the Voice of America is probably the single most important activity of the International Communication Agency. Despite media stories of the past year suggesting otherwise, we have not wavered in our sworn support for the spirit and the letter of VOA's Charter, nor do we have plans to do so. The Voice is and will continue to be an "accurate, objective and comprehensive" source of news. As President Reagan said three weeks ago at VOA's 40th anniversary celebration, "We're justifiably proud that unlike Soviet broadcasts, the Voice is not only committed to telling its country's story, but also remains faithful to those standards of journalism that will not compromise the truth." The Voice's unblemished record of

credibility stands as a model and symbol of freedom for listeners around the world.

The VOA Charter also requires the Voice to "present the policies of the United States clearly and effectively," and we have spared no effort to ensure that VOA commentaries do just that. We have increased their frequency and improved their quality. We are also enhancing our efforts under Point 2 of the Charter, which covers what we call Americana. Our features and close-ups reflect the positive aspects of American life, with genuine regard for representing the variety of opinion and significant thought on major issues. Through these programs, we seek to reflect the vitality of our nation in the 1980's with contemporary relevance to the "successor generation" of listeners abroad.

In recent months, the Soviet Union has resumed jamming of VOA signals not only into the Soviet Union, but into Poland and Bulgaria as well. In response to these illegal acts and to the particular crisis in Poland, we have increased our Polish-language broadcasts to seven hours a day, up from 2 1/2 hours a day at the beginning of December 1981.

As you know, Mr. Chairman, the Soviet Union broadcasts over 2,000 hours a week compared with the 982 hours weekly planned for the VOA. The need to close this gap and to strengthen already existing VOA signals is a serious and urgent one. Therefore, a major part of our FY 1983 budget, $115 million, is earmarked for completion of VOA's Botswana and enhancement of the Sri Lanka short wave relay stations, as well as for improvements at VOA studios in Washington.

In another important area during the past year, we have moved into the future of truly effective public communications by innovative use of satellite television transmissions. Our "Let Poland Be Poland" worldwide satellite broadcast on January 31 was a landmark effort. Never before had so many world leaders come together to deliver the same message -- concern and outrage at the plight of the people of Poland -- under the same electronic umbrella. "Let Poland Be Poland" was seen or heard, in whole or in part, by over 500 million people worldwide. We believe that this program set a standard by which other public diplomacy initiatives will be judged from now on. I am pleased to be able to inform the members of the Committee that generous

contributions from the private sector paid for all but a small part of the cost of this historic program.

"Let Poland Be Poland" was the most important but by no means the only use of satellite television we made in the past year. Last November, President Reagan's address on nuclear arms reduction was seen by an estimated 200 million people in 50 countries. In addition, we have broadcast the President's Caribbean Basin Initiative address, a video dialogue between Defense Secretary Weinberger and foreign journalists, and Secretary Haig's November 30 statement on arms reduction talks. These are only a few of the telecasts we sent via satellite. We want to continue to make use of the technology of satellite broadcasts to move America's message, and we are therefore requesting $3 million for additional worldwide television coverage in the coming year.

America's educational and cultural exchange programs are essential to our national interest. They help build bridges of understanding between peoples of the world and the American people, bridges that can withstand the temporary changes in international political winds. Last year I traveled to China to sign the Implementing Agreement of the cultural accord between our two countries. I have also traveled to Europe this past year, and have heard world leaders express high praise and support for our exchange programs. I am therefore pleased to report that in fiscal year 1983 we intend to increase the budget for these programs significantly. We will attain the objective set by the Congress of allocating over $100 million to this program. Let me assure you this marks the beginning of a long-overdue upward trend in funding for these valuable programs.

Mr. Chairman, President Reagan has often said that government can best represent the American people if it involves private sector leadership. Nowhere is this more true than in foreign affairs, and particularly in the work of the International Communication Agency. The Agency has a legislative mandate to encourage the assistance of the private sector in carrying out its public diplomacy programs. During the past year, therefore, we have moved to involve the American private sector in our work in order to take advantage of its expertise and to extend our reach beyond our budgetary grasp. I have already mentioned the generous support we received for "Let Poland Be Poland." In

addition, we have helped to form four advisory committees of private citizens to provide assistance in (1) New Directions for the Agency, (2) Books and Libraries, (3) Radio Programming and (4) Radio Engineering.

We have also encouraged the formation and activities of other private citizens' groups involved in areas relevant to the work of the Agency such as sports, motion pictures, labor, public relations, and public policy foundations.

Another of our primary objectives for the coming year is to consolidate most of the Agency's operations in one location. At present various Agency offices are housed principally in nine buildings around Washington. This creates a near-impossible management task, as well as serious security problems, and is very costly in terms of lost staff time and other considerations. In order to begin the first phase of this consolidation, we are requesting $3 million.

Having discussed some of our program highlights, I would now like to turn to a detailed discussion of both our FY-82 reprogramming requests and our FY-83 appropriation request.

FY 1982 Funding and Reprogramming Proposals

As part of the Administration's September budget amendment, the pending request for FY 1982 appropriations for USICA programs was reduced by $67.4 million, from $561.4 million to $494.0 million.

Within that total, the $408 million request for Salaries and Expenses would have required the Agency to implement major program cuts in 1982, totaling $55.6 million, particularly in exchange programs. However, the continuing appropriations bill (Public Law 97-92) passed on December 15 provides a funding level of $453.1 million for our Salaries and Expenses accounts, thus restoring $45.1 million of this potential cut. This restoration enabled us to avoid most of the cuts that were identified to accommodate the September budget reductions.

I would like to point out that we are allocating $88.1 million for exchanges and cultural programs under the FY-82 Continuing Resolution. This level is only $4 million under the request of $92.5 million submitted last March. For FY 1983 we are requesting $100 million, the

amount recommended by the Congress in the report that accompanied the Continuing Resolution.

Some adjustments are still required since the amount approved in P.L. 97-92 is $10.6 million below the amount requested in March, 1981 to maintain Agency programs in 1982. Further shifts are necessary to absorb part of the added salary costs resulting from Federal pay raises in FY 1982, to maintain critically needed employment levels and to meet other urgent program requirements. The staff levels, which the Office of Management and Budget increased by 200 over the March 1981 allowance, is required to maintain all USICA programs and activities, especially the Voice of America. Other priority needs include the enhancement of programs for Poland; the transmission of important TV programs overseas by satellite; and the expansion of office space for Voice of America operations in Washington.

In addition to these program adjustments, the Agency plans to shift resources in the Radio Construction account to meet urgent new requirements totaling $12.3 million. The principal new requirement for this program, long in the works, is the urgent need to construct a network of medium-wave stations to reach the Caribbean Basin and Central America to increase U.S. influence and to counteract Cuban and Soviet efforts to penetrate the area, at an estimated cost of $11.2 million. To finance these requirements, we plan to reprogram funds from the Botswana and Sri Lanka short-wave relay station augmentation projects for one year. The Agency's FY 1983 budget includes a request to restore full funding for these projects. We also propose to modify the scope of the Sri Lanka project, and to shift the site to avoid interference with local communications. These important changes are expected to cost $29.3 million.

A detailed explanation of the reprogramming actions in both the Salaries and Expenses and Radio Construction accounts was provided to the Committee recently in two separate reprogramming reports.

We have pending with OMB a request for a supplemental appropriation to fund $7.1 million of the Agency's Federal pay raise costs in FY 1982.

FY 1983 Appropriation Request

The Agency's 1983 appropriation request totals $640 million, an increase of $151 million over the amount provided by the Continuing Resolution bill for FY 1982. The specific appropriations requested in 1983 are: Salaries and Expenses, $495.4 million; Salaries and Expenses (Special Foreign Currency Program), $11.3 million; Acquisition and Construction of Radio Facilities, $115 million; and Center for Cultural and Technical Interchange between East and West, $18.2 million.

The overall $151 million increase is requested to meet the following requirements:

-- a net increase of $86.4 million to complete the construction of high-power transmitting facilities for the Voice of America in Sri Lanka and Botswana. These funds are necessary to offset the reduction in the 1982 budget authority for these projects as enacted under Public Law 97-92 and to expand the scope of the Sri Lanka project and restore the funds that the Agency has proposed to reprogram from the Botswana and Sri Lanka projects in 1982, primarily to construct a VOA network of medium-wave facilities in the Caribbean, as noted earlier.

-- $9.6 million for other Voice of America technical facility requirements, principally to re-equip 19 of VOA's 26 domestic studios with new state-of-the-art equipment, to modernize VOA's Washington Plant power distribution system, and to construct a VOA-owned satellite interconnect system to feed programs from Washington to domestic relay stations and from U.S.-based correspondent bureaus to Washington.

-- $41.6 million in the Salaries and Expenses accounts to meet added costs of continuing the 1982 program level throughout 1983, consisting of $7.1 million in added salary costs resulting from the Federal pay raises in FY 1982 and $34.5 million for overseas wage-scales, price increases for rents, utilities, diesel oil, and other contractual goods and services, and other mandatory changes.

-- $12.0 million to enhance selected Agency activities, consisting of $4.7 million to restore part of the program cuts implemented in 1982 in exchange programs and overseas mission activities as a result of the 1982 budget reduction; $3.0 million to fund regular transmissions

overseas of television programs by satellite; $3.0 million to initiate consolidation of USICA office space in Washington, D.C., and $1.3 million for other changes, mainly to improve the reception of the Agency's Wireless File at certain overseas posts by leasing teletype and data communication circuits.

-- $1.4 million for the East-West Center to meet additional wage and price increases necessary to maintain the Center's current staff and program levels in 1983.

Authorization Request

We have proposed legislative changes that would increase to the level of our present appropriation request the pending authorization of appropriations for fiscal year 1983. We are also seeking several changes in administrative authorities.

One of the changes would enable USICA to carry out overseas English-teaching activities more effectively by permitting us to use the proceeds from English language instruction. We would have considerably more educational and administrative control of activities, and greater continuity and flexibility in program operations. In order to relate such proceeds to our regular appropriation estimates, we are working with OMB to provide the Committee with additional legislative language to be added to our FY 1983 appropriation request.

Summary

I realize that a requested budget of $640 million in FY '83 must be thoroughly justified in the current tight budget situation. We must recognize, however, that this Agency is a critical component of our national security apparatus, and that we are waging a war of ideas with our adversaries. Given the state of the world today, with all of its attendant dangers to free and open societies, I think we need to ask ourselves, what is the most appropriate level of support for our efforts to speak the truth to the world about America in a strong and vigorous voice?

I would suggest that to do less than we are proposing would put at unjustifiable risk not only our ability to deal with a world in turmoil and to explain America to that world, but our capacity to help lead the world and our ability to preserve, to strengthen and to share the values and the ideals that we hold dearest.

Before closing, I would like to add a word of thanks to the Members of this Committee for their cooperation, understanding and support over the past year.

I appreciate the time you have given me today. I would be pleased to respond to any questions you may have.

tion and misinformation about us and our intentions in the world. In Western Europe, where I was recently struck by the serious erosion of support for NATO, there is a whole new generation—the successor generation—that knows nothing of America's role in the Normandy landing, the Berlin airlift, or of the need to remain strong in the face of Soviet expansionism. We are trying to reach that generation of people in Europe and elsewhere through Project Truth. I am pleased to be able to tell you, Mr. Chairman, that Project Truth is being administered through existing staff and resources and does not entail new expenditures of funds.

As the U.S. Government's only means of daily, direct communication with the peoples of the world, the Voice of America is surely one of the most important activities of the International Communication Agency. Despite media stories of the past year suggesting otherwise, we have not wavered in our sworn support for the spirit and the letter of VOA's charter, nor do we have plans to do so. The Voice is and will continue to be an "accurate, objective, and comprehensive" source of the news.

The VOA charter also requires the Voice to "present the policies of the United States clearly and effectively," and we have spared no effort to insure that VOA commentaries do just that. We have increased their frequency and improved their quality. We also seek to reflect the vitality of our Nation in the 1980's with contemporary relevance to the "successor generation" of listeners abroad.

As you know, Mr. Chairman, the Soviet Union broadcasts over 2,000 hours a week compared with the 982 weekly planned for the VOA. The need to close this gap and to strengthen already existing VOA signals is a serious and urgent one. Therefore, a major part of our fiscal year 1983 budget, $115 million, is earmarked for completion of VOA's Botswana shortwave relay station, for the enhancement of the one in Sri Lanka, and for improvement of VOA studios in Washington.

During the past year, we have begun truly effective public communications by satellite television transmissions. Our worldwide satellite broadcast, "Let Poland Be Poland," on January 31 was a landmark effort. But it was by no means the only use of satellite television we made in the past year. Last November, for example, President Reagan's address on nuclear arms reduction was seen by an estimated 200 million people in 50 countries. We have telecast other statements also by the President and his chief advisors. We want to continue to make use of the technology of satellite broadcasts to move America's messages, and we are therefore requesting $3 million for additional worldwide television coverage in the coming year.

America's educational and cultural exchange programs are essential to our national interest. They help build bridges of understanding between peoples of the world and the American people, bridges that can withstand the temporary changes in international political winds. Last year I traveled to China to sign the Implementing Agreement of the cultural accords between our two countries. I have also traveled to Europe this past year, and have heard world leaders express high praise and support for our exchanges program. I am therefore pleased to report that in fis-

cal year 1983 we intend to increase the budget for these programs significantly. We will attain the objective set by the Congress of allocating over $100 million to this program. Let me assure you this marks the beginning of a long-overdue upward trend in funding for these valuable programs.

Having discussed some of our program highlights, I would now like to briefly discuss the Agency's resource requests.

The continuing appropriations bill, Public Law 97–92, provides $489 million for USICA programs in fiscal year 1982. Within that amount, the Agency plans to shift resources in the radio construction and salaries and expenses accounts to cover several new urgent requirements, principally to construct a network of medium-wave transmitting facilities to reach the Caribbean Basin and Central America, to maintain critically needed employment levels, and to cover other urgent program requirements. These reprograming actions were detailed in two recent reprograming reports submitted to the Committee.

The Agency's 1983 appropriation request for continuing appropriations totals $640 million, an increase of $151 million over the amount provided for USICA programs in fiscal year 1982 by the continuing resolution—Public Law 97–92. The major items of change are: $96 million to complete the construction of high-power transmitting facilities for the Voice of America in Sri Lanka and Botswana and to meet other technical VOA facility requirements; $43 million to cover projected 1983 inflationary increases and other mandatory changes for all Agency programs and activities; and $12 million to restore partially the program cuts implemented in 1982 in exchange programs and overseas missions activities and to enhance other priority programs.

I realize that a requested budget of $640 million in fiscal year 1983 must be thoroughly justified in the current tight budget situation. We must recognize, however, that this Agency is a critical component of our national security apparatus, and that we are waging a war of ideas with our adversaries. Given the state of the world today, with all of its attendant dangers to free and open societies, I think we need to ask ourselves, what is the most appropriate level of support for our efforts to speak the truth to the world about America in a strong and vigorous voice?

I would suggest that to do less than we are proposing would put at unjustifiable risk not only our ability to deal with a world in turmoil and to explain America to that world, but our capacity to help lead the world and our ability to preserve, to strengthen, and to share the values and the ideals that we hold dearest.

I appreciate the time you have given me today. I would be pleased to respond to any questions you may have.

Senator WEICKER. Thank you very much.

SENATOR INOUYE'S WELCOMING LETTER TO DR. VICTOR LI, NEW PRESIDENT OF THE EAST/WEST CENTER

Before turning to questions this morning, I would like to submit for the record a letter that I received from Senator Inouye, who regretted he could not be here today. On his behalf I would like to extend the committee's welcome to Dr. Victor Li and our appreciation for him in making the trip from Hawaii.

Dan wrote:

On Thursday of this week a matter of great importance to our Nation and Hawaii will come before your Subcommittee on Appropriations. The Center for Cultural and Technical Interchange Between East and West, a part of the International Communication Agency will present its testimony before the subcommittee. I regret that I will not be able to attend this hearing. Appearing for the first time will be the Center's new president, Victor Hao Li.

In his remarks at the Center's formal convocation on November 3, 1981, Victor Li has recognized the Center's potential to be the key national scholarly institution through which the United States and the Asian-Pacific region can work to advance a new level of maturity in dealing with each other. In achieving its potential, Victor Li intends to make the East-West Center an active and responsible member of the community, contributing as well as receiving. After a little more than 20 years of operation, the East-West Center will, I firmly believe, come very close to fulfilling its goal with Victor Li as President. Mr. Li is well respected by members of the community and I am confident that the Center will do well under his capable leadership.

Mr. WICK. Mr. Chairman, if I might let the record state, I concur with that view. I have been at the East-West Center. Last summer I was in Hawaii where I was also briefed at CINCPAC, and I realize the great, great need for further promotion of understanding in this area. Having met Dr. Li, talked with him and received reports from my colleagues, we are very optimistic about fulfillment of the goals with which that Center is charged.

Senator WEICKER. The East-West Center was folded into it—it is part of ICA?

Mr. WICK. A line item.

Senator WEICKER. Didn't this use to be separate? I thought it was, I used to hold it out as a bargaining chip.

Mr. WICK. Well, Mr. Chairman——

Senator WEICKER. I won't hold this over his head.

Mr. WICK. It is still a line item in our budget.

Senator WEICKER. I do not want anybody to be misled; it happens Dan Inouye and I are good friends; he is a great guy.

FISCAL YEAR 1982 FUNDING LEVELS FOR EXCHANGE PROGRAMS

Congress provided $100 million under the continuing resolution for ICA educational and cultural affairs activities. The explanatory statement accompanying both the House and Senate versions of the bill stated:

. . . of the $443,286,000 provided for salaries and expenses, $100 million shall be used for educational and cultural exchange activities.

Yet on March 1 we received a request to reprogram $11.9 million from this activity.

My concern is not fiscal year 1983, we added funding for fiscal year 1982; your reprograming is unsatisfactory because it cuts the number of academic exchanges below 1981 levels.

For what purposes are you proposing to use these funds earmarked for educational and cultural affairs?

Mr. WICK. Mr. Chairman, we have been faced with a dilemma. As you know, in September 1981 the executive branch of which we are a part, gave us a figure that drastically lowered the amount of dollars we had to fund ICA's various programs. With the restoration of funds to our budget in the continuing resolution, we were able to add back some funds, giving us an $88.1 million budget for exchanges, which admittedly is $12 million below the $100 million suggested.

I think frankly the mistake the Agency made was not coming to you, Mr. Chairman, and other key people in Congress responsible for this stipulation of $100 million for the exchange program, and presenting our dilemma which was not solved until December 15, 1981 with the continuing resolution which gave us the funds.

To arrive at that figure, I would like to refer to Stanley Silverman as to the effect of the overall cuts in our capacity to carry on our programs. Our principal concern in figuring how to implement the original cuts that the Office of Management and Budget had requested was that we did not want to reduce our personnel, which over a period of 15 years has been reduced by over 30 percent. The most valuable asset this Agency has are the various personnel who have achieved a vast background of experience, and serve as the best advocates of America through our Agency. Therefore, in this dilemma, we sought to reduce the cash items that might be the less damaging to our overall efforts. Again, I cite the fact that I have a responsibility to these programs. I understand that the $100 million is a stipulation of Congress and I do not want it to appear that we were cavalier and unbending to a higher authority; it was not meant that way. I will refer to Stanley Silverman now as to how we approached the dilemma we had.

Mr. SILVERMAN. Mr. Chairman, as the Director indicated, our primary need in addition to meeting the fund requirements in the continuing resolution was on the personnel side, and obviously—if you go back to the March budget, we had to accommodate a budget which went from $453 million for salaries and expenses, down to $443 million in the continuing resolution.

So we were faced with a double dilemma of accommodating that decrease and also raising the ECA budget from the $92 million that was in the March budget up to $100 million.

It put double pressure on the Agency.

The Director, after many different meetings with the executive branch, was able to get the Agency's personnel ceiling raised. The raise in the personnel ceiling, the fact that some Foreign Service Act adjustments that would have saved almost $3 million did not go through Congress, and the fact we had to absorb part of the pay raise that was effected this year, made it necessary for us to put $11.9 million into personnel costs that was not contemplated in the earlier budget, as well as accommodating the change in the budget from March.

This reprograming letter was the Agency's manner of informing Congress of this plan, and it was hoped we could have gotten it up here earlier.

There are a lot of puts and takes, but that is the major component of the difference, and obviously at this late stage in the fiscal year—although the whole year has been rather unsettled until the end of the second quarter of the year—it would be very disruptive to try to switch within the salaries and expenses account. We would have to drastically cut every flexible fund we have, which would be some of the critical travel and programing funds, and probably would have to affect employee compensation to realize any sum of money that could be reprogramed back into the educational cultural affairs program.

OTHER FISCAL YEAR 1982 REPROGRAMING CHANGES

Senator WEICKER. What portion of the reprograming is to establish new activities like the foreign press center in Los Angeles?

Mr. SILVERMAN. There is $238,000 at this point in time. There is $572,000 in the Voice of America for the increased broadcasting in Polish that was necessitated after martial law. In total, there is approximately $2 million that we have put into new activities as opposed to just meeting higher employment levels authorized within the executive branch.

Mr. WICK. There are a few activities that are not necessarily new initiatives but that are desirable, such as expanded service to Poland, or which respond to some urgent needs. Others, such as Los Angeles, are not urgent needs, but are important needs to help facilitate foreign journalists and, indirectly, some of our other programs.

SIGNIFICANT REDUCTIONS IN EXCHANGES AVERTED

Mr. TROWBRIDGE. I would like to make a comment about the Director which he cannot make because he is driven by humility.

Mr. WICK. That is a new one!

Mr. TROWBRIDGE. When the reductions in exchanges were settled, after the September cuts were averted, I asked the head of the international visitor staff program what this would do to the programs, how many would have to be cut. I was told that we should not even send cables to the posts to announce any plans for cuts, because for all practical terms we would not have to effect cuts. So the bottom line was that the international visitor program—in terms of total numbers of people—was not cut, and we did not dispatch any cables to the posts.

Now, the Fulbright program, let me give you the figures on that. In 1981, including even those arrangements we have with private corporations, we have had 5,091 academic exchanges. We are estimating this year, in 1982, there will be approximately 4,500 to 4,600, so there will be a little drop there.

However, we are expecting to bounce back in 1983 and all I can tell you is that the academic community—and believe me, I know, they are in touch with me every day—and they are just enormously relieved that the proposed cuts in September did not go through. By and large there

is a happiness out there that the Fulbright program is alive, well, and healthy.

Another point I want to make——

Senator WEICKER. What about the Humphrey program?

Mr. TROWBRIDGE. It will have 90 people funded this year, so that too——

Senator WEICKER. As against what?

Mr. TROWBRIDGE. I will have to find that out for you.

Now, we obviously have not increased numbers, but for all practical purposes we have not decreased numbers except in the Fulbright program. Again we are going to be able to bounce back in 1983.

Let me make another point here, while I am speaking for the record. What the Director is attempting to do is, in a sense, augment with private funds what we were not able to do with Government funds, and I think we will be extremely successful there.

ENCOURAGE PRIVATE SECTOR INVOLVEMENT IN EXCHANGES

The Director is pushing to implement a pilot program to bring over a number of youths from Italy. He has also been the moving force behind a program we are trying to work out with the Foreign Ministry and Senator Heinz for an exchange program with Germany, and we are looking to the private sector to implement a number of exchanges.

Another program the Director is very much behind is a program in honor of the 35th anniversary of the Marshall plan to effect greater exchanges in Western Germany. Again, this is in a state of genesis, but I can tell you because I am the conduit for working these things out for ICA, that the Director is aggressively pushing these things, trying to get the private sector to effect these exchanges.

The Director, last week, had a meeting with Sister Cities International to discuss this. I can tell you we feel the heat to increase the number of academic exchanges, as well as the nonacademic exchanges, and we are attempting to do this by a greater relationship with the private sector in order to augment with the private funds what we cannot do necessarily with Government funds. I think once we get the programs in shape, you are going to see in the present administration an increase in the number of exchanges, certainly not a decrease in them.

CONGRESSIONAL ATTITUDE TOWARD EXCHANGE PROGRAMS

Senator WEICKER. Let me express as best I can the attitude which I have, and that I think is representative of some of my colleagues of the committee and the Senate. It is not a matter of holding these programs to the same level, but rather that we feel of all the things that ICA does, these programs should be the No. 1 priority.

Now I am sure that there are those that feel that Radio Free Europe, Voice of America broadcasts, et cetera, that these are more important. But I want to give expression to another point of view.

First, let me say that I am delighted we are going to continue our relationships with Italy, West Germany, the Marshall plan countries; but candidly speaking, those are the easy ones, that is easy. I have no

doubt that maybe something can be worked out here between Government and the private sector, be it the American private sector or the private sector from those various nations. The difficult task, it seems to me, are the areas which we have really never touched heretofore.

CUBAN AND SOVIET EXCHANGE ACTIVITY

Let me give you a specific example. I used it a year ago but this is the first time we have had a chance to chat, and I think it is a very good one.

About a year and a half ago I had occasion to visit Cuba. Part of that visit was spent on what is now called the Isle of Youth; it used to be called the Isle of Pines. That island just off the south coast of Cuba has on it some 60 senior high school complexes, 15 of which are indigenous to the students of a particular foreign nation.

The one I visited housed 600 students—600 Namibian students whose native language is English, not Russian, not Spanish, but English. These students are getting an education courtesy of the Soviet Union via Cuba.

I enjoyed the time spent with them. I was amazed—I should not have been amazed, but I was surprised as to what their perception of the United States was—which was pretty negative. They are going back to Namibia to become the leaders of that nation. In every endeavor, education, government, business, military, science, they are going to become leaders of that nation. And this was happening under the Carter years, so I am not pinning anything on this administration.

Everybody has their eye on the ball as to the Cuban threat, in Ethiopia—believe me, without discounting these matters to a great extent, I am not worried about them; Africa will swallow them up as they swallow up every foreign nation.

However, I am worried about 600 new leaders of emerging nations. And especially when I asked for the figures of how many Namibians we had in the United States in institutions, and mind you, I come from a little piece of real estate called Connecticut where we have Yale, the University of Connecticut and other institutions much better than anything that Cuba has. I asked some of the Namibians how many of them we had in the United States, and I found out that we had two.

Mr. WICK. In the United States?

Senator WEICKER. Yes; two, under official sponsorship.

Now to me, I am not the world's greatest foreign policy expert, but it is wrong, and there is no reason for it. And I think that I use that as a perfect example.

IMPORTANCE OF EXCHANGE PROGRAMS

I might disagree with the President, for example, on sending arms and advisers into El Salvador, but I do not disagree with him on his Caribbean program, so that there will be no more El Salvadors.

We want to influence, in a positive way, this world emerging around us, Central America, South America, Africa, wherever. This aspect of ICA's work is the most important thing that you do, and that is the

reason for the concern that even status quo is not good enough. We feel we will be pushed far behind, and for the exact reasons I have stated. So it is not because it is fashionable. It used to be fashionable, coming from Connecticut, families in Greenwich and so on.

This is one of the key battles in the world around us. It is not just a nice thing to have. It is a necessity. That is the reason for the emphasis on this point, on the reprograming, et cetera. I have also heard exactly what you stated on behalf of your boss, that Mr. Wick is equally committed to this area, and I am not interested in getting into a hassle as to what priorities are or are not; it is the first time we have had a chance to meet. I would hope I have made my point, and I think I speak for others on the committee and in the Senate. As I went around the Senate floor, conservatives and liberals alike, there was tremendous support for the student exchange programs. I was really surprised as to the support. I would say 75 to 80 percent of the Senate is firm on that.

Regardless of the past system, I would hope we can get on to what we consider to be priorities. Obviously the administration feels broadcasting is a great part of this budget. We will get to that in a minute, and I am willing to recognize that they want to do that they should have a free hand in that, try out what they are doing. But I have tried to make a point as to what the Congress feels.

Mr. WICK. I appreciate that.

EXCHANGES WITH THIRD WORLD COUNTRIES

Senator WEICKER. Just to finish up here, I want to see not just West Germans, French and Italians—I like them as much as anybody else does—but I want to see Salvadorans, Guatemelans, Colombians, Peruvians, Bolivians, Namibians, people from Kenya, and others from emerging nations. These are the students I want to see.

Mr. WICK. Let me comment on that. I share your views wholeheartedly. I appreciate Dr. Trowbridge's recollection of some of the things we are doing that I think are responsive to your concern. But he did not get to the bottom line on the Italian project. The Italian project is a pilot project with one country to see how it works.

Now with $100 million in exchanges, we can't take care of more than 5,000 or 6,000 students, even at the full $100 million. If you double that amount, you might be able to sponsor another 5,000 or 6,000 students. The hope we have for this pilot program is to bring thousands of students into the United States with a very small investment of Government funds.

Now, coincidentally with your observation, I had a meeting in Geneva with a gentleman, who is one of leading philanthropists in the Third World, and he has extensive interests. We discussed this pilot project and how we can get his assistance and his organization's assistance to be able to pinpoint Third World countries and be able to exchange students there. I have set up meetings in Geneva a week from next Monday, Tuesday, and Wednesday with some of the key people of the United Nations to further these exchanges involving the private sector. Instead of getting 5,000 or 6,000 students—we don't have enough

hundreds of millions of dollars—we can get thousands more students by bringing together airlines and corporations and others for whom a contribution is no great sacrifice.

Senator WEICKER. Well, I didn't mean to demean your efforts in Italy. I think that is important, and I want to state that again. My problem shows up clearly in the number of grants that are allocated here for Western Europe. It does very well for itself. It just totally dominates. It receives one-half of the grants that are made; and Western Europe is not where the problem is.

I just don't feel, very frankly, that we will just lose the ties between France and the United States, Belgium, or whatever. It is the new ties that have to be made, and yet Africa has 389 student exchanges allocated to it; North Africa, Near East, and South Asia, 375—these are peanuts; American Republic 457, and all of these combined do not total up to those in Western Europe.

So, even there it seems to be priorities are out of whack. I know that we all like to live with what is comfortable and what we know. I do. But that is not the problem. The problem is, No. 1, on the back door step, as we know, and the problem is going to be in Africa. As I say, what makes you mad is if there is anything the United States has and is the best at, it is education. We have a superior education system in this country, and to think students from developing countries are receiving educations from the Soviet Union and Cuba which cannot hold a candle to the United States. But having them led away from the United States is a most frustrating thing; it is frustrating to stand there and be confronted with that fact situation.

NUMBER OF FOREIGN STUDENTS IN UNITED STATES

Mr. TROWBRIDGE. May I make a comment for the record? About 25 years ago, the number of foreign students coming into the United States, mostly at their own expense was roughly 50,000.

In 1980–81, there were 311,120 foreign students coming into this country to go to college. That figure has doubled in the last 2 years.

Mr. WICK. You mean the figure arrived at from the prior years, in other words that figure has not doubled, just so the record is clear.

Mr. TROWBRIDGE. We predict in 1985 there will be 500,000 foreign students, and by 1990, based on current projections, 1 million foreign students here.

Now the key point I want to make is that the overwhelming majority of these students are from Third World countries. So the private sector has really paid considerable attention to the Third World countries. The majority of the 311,000 students are from Third World countries.

While a university may have only a few Government-sponsored students, the university itself may well have brought in a number of other students through the private sector.

Senator WEICKER. These are the areas we have to reach out to, otherwise we are going to lose the ball game. I would not count on it, but I think you are going to have to go out and get the figures.

Mr. WICK. I think you are absolutely right, and what you are suggesting is that to the degree we are the passive recipient of these benefits so be it. But that does not alter the principle that we should use Government funds to go out and seek to enhance the opportunity for other peoples to share our values, and I agree.

May I make a comment concerning Western Europe? The figure is somewhat skewed, though certainly not enough to change the principle you are making. Germany and certain other countries make substantial contributions to the Fulbright exchange program. There is also the factor that exchanges go both ways and, frankly, there is some reluctance on the part of American students to go to areas where the educational opportunities are less good than those that exist here and elsewhere.

But those are merely the kinds of incidental obstacles I think that innovative measures can change.

Senator WEICKER. Let us move on.

VOA RADIO CONSTRUCTION PROJECT IN SRI LANKA

You recently notified us of a significant change in scope of the Sri Lanka construction project. Total construction costs are now estimated to increase from $66 million to $96 million—a 45-percent increase. And, the annual operating costs are now anticipated to go from $3 million to $14.5 million—a 400-percent increase.

Why have you changed the scope of the project?

You know, one of these days my staff is going to get me in trouble for the things they put in parenthesis in the edges which I am not supposed to read. They have put in parenthesis here "Are you building a C–5A?"

Anyway, why have you changed the scope of the project?

Mr. WICK. Well, just to make the parenthesis more comfortable, we are not building a C–5A.

We are engaged in a war of ideas, where the weapons are not the weapons of hardware, but the communication of ideas. The ammunition is our thoughts and values that can be communicated to other people, as we are charged by the Congress to do.

Not only is it important for this Agency to formulate and communicate ideas, and to express what America is all about but we must have the capacity to penetrate our target to reach the people of the world. This is a function of the strength of the signal, and if our radio signal, in competition with many other international broadcasters, is not received, it is very disturbing. I am sure in your travels you find it very annoying to try to get Voice of America, BBC, or some other broadcaster in an area where you have interference and the signal you want is weak.

NEED FOR 500 KILOWATT TRANSMITTERS

The state of the art currently in the international shortwave field is that of 500,000 watt transmitters. In 1966 the United States had 39 percent of the world's state of the art transmitters. It is down to 13 percent now, and the Soviets are up to 35 percent. The curve of their ascend-

ency in state of the art transmitters is straight up. To play catch up with them, we would have to get going almost immediately to increase our signal strength. If it could be ordained as of this moment, there is still a 3- to 5-year leadtime with the kinds of operations that are required. The 500,000 watt transmitters are not "shelf items" but must be custom-made and custom-designed.

With regard to the Sri Lanka project, which is a very important area of the world for the emanation of shortwave signals, I asked for a review of where we are with the evolution of this project, and asked the experts in the Agency why we are frozen into pursuing this multimillion dollar project with less than state of the art equipment. I am concerned that 250,000 watt transmitters were planned in the initial process.

Everybody is now agreed that it would be very desirable—indeed essential—to have the greater capability which the 500,000 watt transmitters would provide. As the head of the Agency and someone who deals with the reality of business, it made no sense for this country not to have state of the art equipment in so critical an area where we have the opportunity to reach almost one-half the people on Earth from Sri Lanka, about 2.3 billion. A stronger signal makes the quality of our communication more vibrant, more permeating, as well as increasing the number of people in the territory to be encompassed.

INCREASED VOA COVERAGE WITH 500 KILOWATT TRANSMITTERS

We have a chart here. Terry Catherman, the Deputy Director of the Voice of America, can show you very effectively the reasons why we made this choice. Although $29 million of additional funds would have to be expended, we believe it is worthwhile in terms of our security goals, and in terms of communicating our policies and our ideas about America.

Mr. CATHERMAN. Incidentally, before we get on to that, I think Stan Silverman should correct some of those figures about the difference in cost of these projects. While I have the floor——

Mr. WICK. Upward or downward?

Mr. CATHERMAN. Both. Nothing is ever uncomplicated.

Mr. Silverman. The construction price remains the same as presented in this budget; the operating costs change.

Mr. CATHERMAN. But let me point out, sir, that this solid green line on this chart represents what our transmitter complex of 500,000 watt transmitters would encompass.

Mr. WICK. This is at night time.

Mr. CATHERMAN. Yes, at nighttime. Nighttime is the best time for broadcasting shortwave. It would get us a good strong signal into Soviet central Asia, and we don't have those possibilities now.

On this chart you can see that the signal would also cover most of China on up into Manchuria, Mongolia, and South Asia, a great area of turmoil, into East Africa where we are having transmission problems at the moment; and then of course into the Middle East.

[CLERK'S NOTE.—The chart is being held in the subcommittee files.]

The dotted green line shows where these 500 kilowatt transmitters would reach during daytime.

The difference is represented by the solid red line which shows what the 250 kilowatt transmitters would reach in nighttime transmissions, and the dotted red lines show what those transmitters would reach during daytime.

So clearly if we are serious about the areas of great geostrategic interest to us right now, the 500 kilowatt transmitters are what we need.

May I just give you an example of what the 500 kilowatt transmitters would do in relation to our other relay stations broadcasting into that area?

This blue solid line over here represents the optimum transmissions from our transmitter complexes located at Kavala, Greece.

And as you can see, it gets over here about half way to Afghanistan and Pakistan. There is a big gap here in India, and of course the range of broadcast into the Soviet Union just covers about half of the Soviet central Asian area.

The other transmitter complex we have in the Philippines covers this area of China fairly well.

What we are looking for now is in the first place backup capabilities for this whole area, which will allow us some flexibility, and will allow us to get a better signal into the area. We usually like to have three sources going into an area, and this would at least give us two sources. It would then reduce some of the vulnerability that we have, the obvious ones, potential political vulnerability and so on.

This solid orange line represents what we reach right now with the rather low powered shortwave transmitters we have already located in Sri Lanka.

Now, Stan Silverman can better explain than I the reason for some of these big cost increases.

INCREASED ESTIMATED COSTS FOR THE SRI LANKA PROJECT

We found that the present site that we now occupy with these rather low-powered transmitters is too close to the airport, and so we had to relocate our site anyway. Whether we go with 250 or 500 kilowatts, we still have to get away from the airport, because we would be interfering with air traffic communications.

So we found another site up here. Now that creates some cost problems but also gets us away from major communication interferences. I think that is the main reason for the increase in cost.

With your permission, Mr. Director, we will have Stan explain.

Mr. SILVERMAN. The difference in the overall construction cost from last year is $29.3 million, of which $23 million is attributed to the increase in power to the 500 kilowatt transmitters. It includes both the cost of the transmitters, and more importantly, the power to run the transmitters and the antenna costs.

Then $6.3 million of the increase is due to the shift in locations, the major problems being the fact we have to build housing and virtually a

small community at the new site because it is so isolated from Colombo where we expected the staff to be able to find accommodations.

On the operating cost side, Mr. Chairman, we took another hard look at the total, and instead of $14.5 million, it would now appear to be $11.8 million for the cost of operating it. Of that increase from the previous estimate, the major part again is due to the increased operating costs of a 500 kilowatt facility as compared to a lesser one which accounts for $5.7 million of that change.

Mr. CATHERMAN. If I may, I have some graphs here for the subcommittee

VOA BROADCASTING TO THE CARIBBEAN

Senator WEICKER. While you are on this, why don't you go ahead to the Caribbean situation?

Mr. CATHERMAN. I will be glad to do so.

I wanted to point out the population breakdown that would be within range of the 500 kilowatt transmissions on page 6 of the graphs.

Now, if we go to the Caribbean—this chart shows what we currently have, and it is also in your graphic book.

[CLERK'S NOTE.—The chart is being held in the subcommittee files.]

We have a 50 kilowatt medium wave transmitter already located at Marathon in the Florida Keys, which gives a pretty good signal into the solid area of Cuba that is here, and we have some capability on both sides.

We need to modernize this. This is a mobile transmitter located in some vans on some skids put there in 1962. We have had remarkably good success there, but it is getting to the point where we have to put in permanent installations. It is a difficult area to maintain. At least we have that in existence already. It is for Spanish language broadcasts into Cuba.

Now, on Antigua we have a 50 kilowatt transmitter on loan to us from the Defense Department, with an antenna allowing us to broadcast in English into this island chain, the Antilles. Our request is that we get our own transmitter there which would be automated with our own antenna system, so that we can make this a permanent installation.

Actually we don't have quite this range at the moment with the antenna system borrowed from the Defense Department which is not directional, so we are not quite sure how far we go, but we do not get this pattern. The directional antennas are being shipped and they should be installed in 6 months.

Mr. CONKLING. Even before that.

Mr. CATHERMAN. But that is what we have now.

PROPOSED NEW VOA CAPABILITIES IN THE CARIBBEAN

Now, if I may show you what we would like to do to give you an indication of the sort of impact we want.

[CLERK'S NOTE.—The chart is being held in the subcommittee files.]

Of course we will continue with our broadcast to Cuba from Marathon in Spanish.

Then we would like to install another 50 kilowatt automated transmitter here—actually two transmitters are involved, but one is a reserve—which would allow us to broadcast into the main part of Central America in Spanish.

We have had some preliminary discussions with Grand Cayman Island, and we don't anticipate any great difficulties going ahead with this once we get the authorization.

We also wish to do the same sort of construction on Grand Turk Island for broadcasts into the Dominican Republic, and these broadcasts would be in Spanish, and somewhat later in French Creole. That is the reason for the orange color, and you can see the pattern we have from Grand Turk.

Then we have the question of doing something for Jamaica. We have had informal discussions with Jamaican broadcasting and they showed some interest at one time in going into a joint arrangement whereby we would build a good medium wave transmitter system for them essentially, and then use some of their time. But for a variety of reasons, they come and go on this, and our backup arrangement would be another 50 kilowatt medium wave transmitter on Grand Cayman, which would easily encompass Jamaica.

So that is essentially what we would like to do in the Central American and Caribbean area.

This would give us medium wave transmission capabilities for the majority of the areas that are of very great interest to us right now.

OTHER MAJOR BROADCASTERS INTO THE CARIBBEAN

Now, if I may refer you to one of those charts in your booklet, and I will show it to you here, to give you an indication of how far behind we are as far as broadcasts into this area are concerned.

[CLERK'S NOTE.—The chart is being held in the subcommittee files.]

I will not go down this list, but Cuba is way ahead as you can see, with 280 hours a week.

We have BBC way ahead of us with 186 hours a week in three languages: English, Spanish, and Portugese.

USSR broadcasts in 10 languages, 133 hours.

West Germany is ahead of us with 98 hours.

We are here in the middle with 84 hours a week in English, Spanish, and of course, further down into South America in Portugese.

Senator WEICKER. Who operates the Voice of the Andes?

Mr. CATHERMAN. That is a religious broadcasting service and as far as I know it is private, with 500 kilowatt transmitters. Their signal is terribly powerful. I just spent some time down there going over the possibilities on Grand Cayman, and I spent my evenings listening to the radio. It is amazing the number of great big international broadcasters interested in the area, including Moscow.

POSSIBILITY OF USING U.S. OWNED CARIBBEAN ISLANDS FOR VOA BROADCASTING

Senator WEICKER. Why, out of curiosity, have we not given consideration to those islands under the U.S. flag, that is St. Croix? Am I to understand you will be going out of Antigua using old equipment that was left behind by the Air Force? What is wrong, since you are now constructing new facilities, in locating on an island with the American flag?

Mr. CATHERMAN. It is the availability of frequency. We can give you a full rundown on this. The problem is frequency and the direction of broadcasts. For instance, our ex-director kept going back to Puerto Rico as a possibility for broadcasts into Santa Domingo or to some of the American islands where we have American facilities, but we always ran into the problem of getting available frequencies; and so we settled on these sites as ones where we could have a broadcast pattern that would not interfere with competitors using the same frequencies. These frequencies are regulated by international agreement. We just had an international conference in Rio last year to reallocate frequencies, and thanks to some, these we are negotiating on, we managed to free some of these.

Senator WEICKER. My own feeling is that we have options in that part of the world. We are friendly with the present administration in Jamaica, the British Goverment as far as other areas there, and I must confess that I would feel a lot better if you would utilize American territory for your activities.

Mr. WICK. Sir, are you saying it is not possible to do that?

Senator WEICKER. What I am saying——

Mr. CATHERMAN. Well, the difficulty is getting frequencies and agreements from the other broadcasters on the same competing frequency.

Mr. WICK. Is that improbable?

Mr. CATHERMAN. It is improbable according to the negotiation organizations that were at Rio last year.

Senator WEICKER. Have you explored with the U.S. Virgin Islands?

Mr. CATHERMAN. Yes, sir.

Senator WEICKER. St. Croix?

Mr. CATHERMAN. I will take that question.

Senator WEICKER. The reason I say that, St. Croix is U.S. territory. God knows, we are looking for enterprises there, they are looking for enterprises to have on the island, and I don't see——

Mr. CONKLING. Part of this problem we ran into, when you broadcast from Puerto Rico, you will be broadcasting west and you will interfer with the U.S. broadcasting activities and other international broadcasting activities.

Mr. WICK. Have we specifically investigated the islands?

Mr. CATHERMAN. Yes; in the Virgin Islands we have, but I can't answer for St. Croix.

Senator WEICKER. It is the southernmost one, only a stone's throw from Antigua.

Mr. CONKLING. If you were going south from there, that is a possibility.

Senator WEICKER. You are going southeast.

Mr. CATHERMAN. May I answer this, sir, in a letter?

Senator WEICKER. Yes; I wish you would take a look at it; it is a logical time to take a look. I can understand what facilities you have in Antigua, former Air Force or NASA?

Mr. CATHERMAN. Yes, Air Force, they are still there.

Senator WEICKER. I know you have both of those on Antigua. But if there will come a time to be buying new equipment, setting up our own operations, that would be a good time to look at that.

TIMING FOR APPROVAL FOR CARIBBEAN AND SRI LANKA VOA PROJECTS

Now, can you wait until June for approval of the funding for the Caribbean-Sri Lanka projects, because we will have a June supplemental for all agencies? Or how do you view your request for funding for these projects?

Mr. WICK. I can answer that. In Sri Lanka, we have run into the danger of being in a negotiation where the agreement was initiated 15 months ago, and frankly we are concerned that any further delays can be prejudicial to that kind of an agreement in that kind of setting.

If we get the 20-year leasing authority we can delay actual construction. I have done all that I can to let Congress know the specifics of the problem as we see it. It does not make any sense to be putting all that money in a 10-year lease. The amortization will not make sense in the short period in which we might be there. We have some equipment that predates World War II in the Voice of America. Also it is becoming increasingly difficult to get sites. We do not want to be in a position 10 years hence of looking around for another site and not being able to move the equipment; that does not make sense.

So if we could get the authorization to enter into a 20-year agreement, then of course waiting until June would not be as prejudicial.

Do you want me to comment on the Caribbean?

Senator WEICKER. Sure.

Mr. WICK. We feel the urgency of the project in the Caribbean is such that we suffer practically every day there is a delay. It is a loss—potentially a lost opportunity. It would be in our national interest to be able to proceed as expeditiously as possible.

RECENT DEVELOPMENTS AT THE EAST/WEST CENTER

Senator WEICKER. Mr. Li, would you please tell us what changes have been instituted at the Center in the last several months?

Mr. LI. We have been undertaking a program review since last summer, trying to take a look at the subjects that we are doing there, the subjects we are not doing; in particular, moving the Center in the direction of getting more into regional economics and regional political problems.

We have also begun to try harder to look at funding, especially funding from abroad through institutions and other countries.

In the past the Center has pressed particularly hard for funding from foreign governments, but I would like to try now with private institutions, and I think we will meet with some success for this.

Senator WEICKER. Net reduction of 25 positions in the budget, is that correct?

Mr. LI. That is correct.

Senator WEICKER. And that seems to bring about a situation where you are going to be able to free resources for other uses. What are your ideas on that?

Mr. LI. What we have tried to do is to have a more flexible approach to our methods. Rather than having staff—the research areas—holding permanent positions there, to change it to fellows who come for a year or two, and constantly roll over our program getting more people involved and dealing with new problems as they arise around the Center.

Senator WEICKER. Thank you, Mr. Li.

POSSIBLE TRANSFER OF FUNDS FROM RADIO CONSTRUCTION TO SALARIES AND EXPENSES APPROPRIATION

Mr. Wick, do you have any objection to transferring unobligated funds from VOA construction to pay for the 200 positions OMB added to your ceiling?

Mr. WICK. Obviously we would like to increase the funding for educational and cultural activities, and the shift you described would not have significant impact on the Sri Lanka project.

However, we are part of the administration, and we do not want to advocate privately or publicly any sort of a modification that would exacerbate the problem of expenditures for the current year.

And there would be some increase in outlays as a result of such a shift—about $6 million.

Sir, there would be some increases as a result of that shift. Mr. Silverman can explain that, I am not that knowledgeable about what the cost would be.

Mr. SILVERMAN. A decision in June on the Sri Lanka project would delay the major bid process and enable us to defer obligations of somewhere between $7 and $10.5 million. But assuming it is $10.5 million, we would only save in outlays in that account $1.3 million, and it would cost about $7 million in spending if we were to obligate that same money in salaries and expenses as educational exchange grants. In other words, as you framed your question, if that money were moved into salaries and expenses, to cover the salary and expenses of our reprograming and free up money to put into the educational and cultural affairs, it could be done of course without harm to the radio.

Senator WEICKER. Consistent with your policies and administration overall budgets, why don't you work with my staff on that?

Mr. SILVERMAN. Yes, sir.

ICA SUPPORT OF GEORGETOWN UNIVERSITY'S INTERNATIONAL STUDENT EXCHANGE PROGRAM

Senator WEICKER. I will enter into the record a letter which we received from Georgetown University regarding the international student exchange program. We funded the program at $600,000 in 1982. There was total agreement on that amount between the House and the Senate.

ICA proposes to reduce funding to $350,000—as part of its reprograming. We have a per student cost to the Government of $1,000. I think there is some disagreement from the staff on that. In any event, I would like to have a response on that for the record.

LETTER FROM HAROLD BRADLEY, S. J., DIRECTOR, OFFICE OF INTERNATIONAL PROGRAMS AND T. BYRON COLLINS, S. J., ASSISTANT TO THE PRESIDENT FOR FEDERAL RELATIONS, GEORGETOWN UNIVERSITY

MARCH 9, 1982.

The HON. LOWELL P. WEICKER, Jr.,
Chairman, Subcommittee on State, Justice, Commerce, and the Judiciary,
Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We are pleased to respond to your request for a justification of the expenditure of $600,000 to carry out the international student exchange program during fiscal year 1982. This expenditure is based on an anticipated level of 600 exchanges.

Although it is true, as the Agency has indicated, "that the ISEP program has consistently handled fewer students than projected," this is because the program has not been funded by the Agency early enough in any of the past 3 fiscal years to take advantage of the academic cycle for recruiting students. It is also true that administrative costs associated with each exchange have been greater than anticipated. However, these costs have been dramatically lower than the administrative costs of other exchange programs.

It is difficult to isolate the administrative costs of the Fulbright exchanges—for instance, in the Institute for International Education and the Office of Educational and Cultural Affairs of the U.S. International Communication Agency. However, a review of the number of students provided for under this program and the cost to the Government would seem to indicate that Fulbright exchanges cost a minimum of $15,000 each. This amount includes administrative costs and the award.

The international student exchange program generates approximately $10,000 for each $1,000 of funds expended by the U.S. Government. In other words, for each $1,000 of ISEP administrative costs covered by Government funds, the student and his or her institution spends $10,000 more to support the cost of the exchange. Of course, in the case of the Fulbright exchange, the total cost must be paid by the U.S. Government. We are convinced that the ISEP program is the most cost-effective exchange program which the Government is supporting.

Finally, we would like to remind you that, although the ISEP grant is administered by Georgetown University, there are more than 100 U.S. universities participating in the program and it has its own Advisory Board. We are enclosing with this letter a copy of a list of the institutions participating in the international student exchange program and a list of the names of those who are on the Advisory Board.

Thank you for your consideration of your request.

Respectfully yours,

HAROLD BRADLEY, S. J.,
Director, Office of International Programs.
T. BYRON COLLINS, S. J.,
Assistant to the President for Federal Relations.

ISEP MEMBERSHIP

Australia: Deakin University; The Flinders University of South Australia; La Trobe University; Macquarie University; The University of New England; and The University of Wollongong.

Austria: Universität Salzburg.

Bangladesh: Bangladesh Agricultural University.

Belgium: Katholieke Universiteit te Leuven; Université de Liège; and Université Catholique de Louvain.

Brazil: Pontificia Universidade Católica do Rio de Janeiro.

Canada: University of Alberta, Brock University; Laurentian University; and University of Prince Edward Island.

Colombia: Universidad de los Andes; Universidad del Norte; and Politécnico Grancolombiano.

Costra Rica: Universidad Nacional Autónoma de Heredia.

Dominican Republic: Universidad Católica Madre y Maestra.

Fiji: The University of the South Pacific.

France: Université de Dijon; Université de Franche-Comté; Institut d'Etudes Politiques de Paris; Institut National des Sciences Appliquées de Lyon; Université des Sciences Sociales (Grenoble II); Université des Langues et Lettres (Grenoble III); and Université de Nice.

Germany: Universität Mannheim; Philipps-Universität Marburg; Universität Trier; and Eberhard-Karls-Universität Tübingen.

Hong Kong: Chinese University of Hong Kong.

Ivory Coast: Université Nationale de Côte d'Ivoire.

Kenya: Kenyatta University College.

Malta: University of Malta.

Mexico: Instituto Tecnológico y de Estudios Superiores de Occidente (ITESO).

Netherlands: The Netherlands School of Business.

Nigeria: University of Ibadan and University of Ife.

Senegal: Université de Dakar.

Togo: Université du Bénin.

Tunisia: Université de Tunis.

United Kingdom: University of Glasgow; South Glamorgan Institute of Higher Education; University of Strathclyde; Ulster Polytechnic; and University College of North Wales, Bangor.

Note: The above list includes both institutions that have signed the ISEP agreement and institutions that have confirmed their intention to join ISEP but have not yet signed the agreement.

UNITED STATES

Alabama: University of Alabama-Birmingham.

Arizona: American Graduate School of International Management and Northern Arizona University.

California: University of California-Davis; University of California-Irvine; University of California-Riverside; University of California-Santa Barbara; Claremont-McKenna College; and University of San Francisco.

Colorado: University of Colorado-Denver.

Connecticut: Central Connecticut State College and Fairfield University.

Delware: University of Delaware.

District of Columbia: Catholic University of America; Georgetown University; and Howard University.

Florida: University of North Florida.

Georgia: Emory University; Spelman College; and University of Georgia.

Illinois: Knox College; Southern Illinois University; and University of Illinois at the Medical Center.

Indiana: Ball State University and Earlham College.

Iowa: Central College and University of Iowa.

Kansas: Johnson County Community College and University of Kansas.

Kentucky: Murray State University and Northern Kentucky University.

Louisiana: Louisiana State University; Northwestern State University of Louisiana: Southern University; and University of Southwestern Louisiana.

Maryland: Frostburg State College.

Massachusetts: Brandeis University; Boston University; Mount Holyoke College; University of Lowell; University of Massachusetts-Amherst; and University of Massachusetts-Boston.

Michigan: Grand Valley State Colleges and Mercy College of Detroit.

Minnesota: Carleton College; Saint Olaf College; and University of Minnesota-Twin Cities.

Mississippi: University of Mississippi.

Missouri: University of Missouri-Rolla and William Jewell College.
Montana: Montana State University.
Nebraska: Creighton University and University of Nebraska-Lincoln.
New Jersey: Fairleigh Dickinson University and St. Peter's College.
New Mexico: University of New Mexico.
New York: Adelphi University; Hofstra University; Pratt Institute; Rensselaer Polytechnic Institute; and State University College at Buffalo.
North Carolina: Fayetteville State University; North Carolina State University-Raleigh; and University of North Carolina-Charlotte.
Ohio: Bowling Green State University; Miami University; Urbana College; and Wittenberg University.
Oklahoma: Oklahoma State University.
Oregon: Southern Oregon State College.
Pennsylvania: Bryn Mawr College; Cheyney State College; Dickinson College; Indiana University of Pennsylvania; Philadelphia College of Art; Swarthmore College; and University of Scranton.
Rhode Island: Brown University.
South Carolina: Clemson University and College of Charleston.
South Dakota: Black Hills State College.
Tennessee: Tennessee State University; University of Tennessee-Chattanooga; and University of Tennessee-Knoxville.
Texas: Texas A and M University.
Utah: University of Utah and Utah State University.
Vermont: Castleton State College and University of Vermont.
Virginia: George Mason University and Virginia Commonwealth University.
Washington: Gonzaga University.
Wisconsin: University of Wisconsin-LaCrosse and University of Wisconsin-Platteville.

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EXCHANGE PROGRAM CUTBACKS

Mr. TROWBRIDGE. One of the things we try to do is to effect as many exchanges as we possibly can with the dollar. We went forward with this $350,000 that was in the March budget. If we increase it to the $600,000 that was recommended by Congress, we will then of course be required to take that money from somebody else. As I indicated earlier, the number of participants in the exchange program this year was cut back roughly from $5,500 to $5,300, so when you place it in that context: that additional amount will have to come from some other program.

As I looked at the figures I had on what Georgetown had actually achieved and the argument it put forward in terms of effecting exchange with lower administrative costs, I found the figures did not support that. In good conscience I could not take that additional money from somebody else from whom we were getting more for our money.

I might share with you those figures. In 1979 ISEP was granted $100,000. Their own figures projected that they would exchange 100 students total. In fact they exchanged 28 students, which was a shortfall of 72 percent.

In all fairness, that was the first year of the program, and their eyes might have been bigger than their stomachs. They also said at that point we were slow in getting money to them, so part of the blame was put on us.

I can accept that argument the first year around, although I question the 72 percent shortfall, I don't think it had to be that great. But never mind that, in the first year I can see how they could have difficulty getting going.

In the second year, 1980, we gave them $200,000. They said they would exchange 300 students. They later revised it to 200 students, but in reality they exchanged 128, which is a 36 percent shortfall.

Now, as time proceeds, even if they are getting the money late, it is no longer a valid excuse, because they are experienced about how the project works.

The point I make, we give money uniformly late to everybody, so the recipients become accustomed to that. We give it as quickly as we can.

Now, in 1981 we leaped from $200,000 to a $500,000 figure, a very sizable increase.

They projected for ISEP an exchange of 600 students. In reality they exchanged 251 students, which is in fact a 58-percent shortfall again.

So the question I asked myself was: Do we go with $350,000, or do we increase it? Should we take $250,000 from somebody else already cut, or take it from the Fulbright program, or do we in fact take it from Georgetown?

Given that Georgetown had fallen short of its projections, I could not put the money there. I felt it had to be put in other areas to get more for our dollars.

And so, in short, that is the essence of the decision.

Senator WEICKER. I think under those circumstances you have the right to expect performance.

Thank you very much.

[CLERK'S NOTE.—Subsequent to the hearing the following letter was received from Georgetown University:]

LETTER FROM HAROLD BRADLEY, S. J., DIRECTOR, OFFICE OF INTERNATIONAL PROGRAMS AND T. BYRON COLLINS, S. J., ASSISTANT TO THE PRESIDENT FOR FEDERAL RELATIONS, GEORGETOWN UNIVERSITY

MARCH 31, 1982.

The HON. LOWELL P. WEICKER, Jr.,
Chairman, Subcommittee on State, Justice, Commerce, and the Judiciary,
Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In the March 25, 1982 hearings of your subcommittee, Mr. Trowbridge of the International Communication Agency testified that the Agency was requesting a reduction in funding for the international student exchange program from $600,000 to $350,00 because they did not anticipate that the universities participating in the ISEP would exchange 600 students. He based that expectation on the failure of the universities to exchange as many students as they had projected in the first 3 years of the pilot project. Because we are now much later in the recruiting cycle than we were when the other projections were made we have a better idea of how many students will be exchanged in September and we do indeed expect to exchange at least 600 students.

Mr. Trowbridge suggested that if he did not give the entire $600,000 to ISEP that he would be able to spend the other $250,000 in a more cost-effective way to promote exchanges. We know of no evidence to indicate that any other exchange program administered by ICA gives them more for their money.

I would respectfully respond to Mr. Trowbridge's suggestion, that we should have learned to anticipate the inability of the Agency to provide funding during the regular recruiting cycle for the exchange program, by saying that we believe the problem was more serious. During the first 3 years of the pilot program we were reluctant to move forward and aggressively recruit students for exchange not because the funds were late in coming but because the Agency continuously advised us that they probably would not fund the program. This has been as true during the current administration as it was during the previous. This year, so that the pilot program would be functioning successfully when it became the responsibility of the cooperating universities, we have spent in anticipation of receiving the $600,000.

In our submission to your subcommittee in 1978 our originally projected cost for designing and implementing ISEP over a 4-year period was $2.8 million or $1,272 per student exchanges, for 2,200 students (see attachments 1 and 2, prepared August 17, 1978). This projected per student cost was proved to be fairly accurate, although it was based on more students than we have actually exchanged. By the end of the fourth year of the pilot project we will have exchanged approximately one-half the number of students we anticipated, for exactly one-half our originally projected budget. In the first 3 years of the program (fiscal years 1979, 1980, and 1981) we used $800,000 to exchange 386 students, for a per student cost of $2,072. In fiscal year 1982 we anticipate exchanging 600 students for $600,000. This will bring the average cost over 4 years to $1,420 per student, 11 percent over our 1978 projection. Since we have not had a grant in hand during 18 of the 41 months since the pilot project began (44 percent of the time), we do not believe that the USICA criticism is justified. In fiscal year 1979, we received our grant 4 months into the grant year; in fiscal year 1980 5 months; in fiscal year 1981 6 months; and we have yet to receive a grant this year.

On behalf of the 150 institutions cooperating in the ISEP network we thank you for your concern for this project. If we can provide any further information please do not hesitate to call.

Sincerely,

HAROLD BRADLEY, S. J.,
Director.
T. BYRON COLLINS, S. J.,
Special Assistant for Federal Relations.

NUMBER OF EXCHANGE PARTICIPANTS

[Original projection]

Year (Oct. 1-Sept. 30)	1978–79	1979–80	1980–81	1981–82	1982–83	Total
New placement sought in United States	50	100	150	300	0	600
New placement sought outside United States	50	100	150	300	0	600
Number exchange students recruited in United States	50	150	300	600	0	1,100
Number exchange students recruited outside United States	50	150	300	600	0	1,100
Number U.S. exchange students in place abroad	0	50	150	300	600	1,100
Number exchange students from abroad in place in United States	0	50	150	300	600	1,100

Over the 5-year period October 1, 1978 to September 30, 1983, 2,200 students will participate in the exchange, 1,100 from American institutions and 1,100 from institutions abroad.

ORIGINAL PILOT PROGRAM BUDGET FISCAL YEARS 1979–82

Year (Oct. 1-Sept. 30)	1978–79	1979–80	1980–81	1981–82
Planning [1]	$50,000	$100,000	$150,000	$300,000
Implementation [2]	100,000	300,000	600,000	1,200,000
Total annual budget	150,000	400,000	750,000	1,500,000

[1] Developing network of universities and recruiting U.S. students for exchanges; $1,000 per place/student recruited.

[2] Providing support services for exchange students; $2,000 per U.S. student in place abroad.

Total budget for 4 years (fiscal years 1979–82) equals $2,800,000. Per student cost over 4 years equals $1,272.

PER STUDENT COST OF ISEP EXCHANGES IN PILOT PHASE OF PROJECT (FISCAL YEARS 1979–82)

	Fiscal year—				
	1979	1980	1981	1982	Total
USICA grant	$100,000	$200,000	$500,000	[1] $600,000	$1,400,000
Number of students exchanged	28	128	230	[2] 600	986
Per student cost	$3,571	$1,562	$2,174	[2] $1,000	$1,420

[1] Requested.

[2] Projected.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. There are some other questions from members of the committee that we will pose to you for response for the record. Otherwise, I appreciate your appearance very much.

[The following questions were not asked at the hearing but were submitted to the Agency for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LOWELL P. WEICKER, JR.

VOA RELAY STATION AGREEMENTS

QUESTION:

For the record, provide the following information on each existing VOA relay station agreement:

A. Date of agreement.

B. Equipment and services provided to host government.

C. Operating restrictions.

D. Provisions for shared use of VOA transmitters.

E. Expiration date and termination conditions.

F. Total estimated cost including:

1. One time payments.

2. Rental or lease costs.

3. Value of equipment and services provided.

4. Other charges estimates over the agreement's life.

ANSWER:

The requested information on each of the Relay Station Agreements is provided as follows:

Antigua

Q. FOR THE RECORD, PROVIDE THE FOLLOWING INFORMATION ON EACH EXISTING VOA RELAY STATION AGREEMENT:

A. Date of agreement

April 12, 1980.

B. Equipment and services provided to host government

None.

C. Operating restrictions

Authorized by the GOA to operate on a frequency of 1580 kHz only. All other uses of the facility are unrestricted.

D. Provisions for shared use of VOA transmitters

None.

E. Expiration date and termination conditions

The agreement presently in effect does not specifically contain a termination clause. A provision exists wherein the right to operate said facility will be reviewed at five year intervals.

F. Total estimated cost including: (1) One time payments; (2) Rental or lease costs; (3) Value of equipment and services provided; (4) Other charges estimated over the agreement's life

1. None.
2. A $12,000 licensing fee is paid to the GOA on an annual basis.
3. None provided.
4. None anticipated.

Selebi-Phikwe, Botswana

Q. FOR THE RECORD, PROVIDE THE FOLLOWING INFORMATION ON EACH EXISTING VOA RELAY STATION AGREEMENT:

A. Date of agreement

March 28, 1980.

B. Equipment and services provided to host government

A training program is to be implemented by the USG wherein Botswana technical personnel will be provided training in radio broadcasting.

C. Operating restrictions

None.

D. Provisions for shared use of VOA transmitters

GOB provides use of the 50 KW ..edium wave transmitter for a period of 12 hours per day.

E. Expiration date and termination conditions

March 28, 1990. Either party may terminate the agreement by giving 6 months advance notice.

F. Total estimated cost including: (1) One time payments; (2) Rental or lease costs; (3) Value of equipment and services provided; (4) Other charges estimated over the agreement's life

1. None.
2. None.
3. The cost of Radio Botswana's 12-hours per day usage of the VOA transmitter is $67,000 per annum. The trainees salaries will be borne by the GOB with no anticipated cost to USG.
4. None anticipated.

Woofferton, England

Preface: This facility is operated by the British Broadcasting Corporation for the Voice of America. All equipment is provided by the USG and all construction, expansion and modernization costs are borne by the USG.

Q. FOR THE RECORD, PROVIDE THE FOLLOWING INFORMATION ON EACH EXISTING VOA RELAY STATION AGREEMENT:

A. Date of agreement

Present contract was effective April 1980.

B. Equipment and services provided to host government

All equipment including 10 each 250 KW shortwave transmitters, receivers and peripheral equipment, including antennas, becomes the property of the British Broadcasting Corporation after 10 years from installation. Extension to the 10 year period may be negotiated. All equipment may be used by the BBC for their broadcasts when not in use by VOA.

C. Operating restrictions

None.

D. Provisions for shared use of VOA transmitters

BBC has the right to utilize all equipment for BBC programming when said equipment is not being operated in the VOA program schedule. BBC will bear costs of aforementioned operation.

E. Expiration date and termination conditions

November 1, 2001. Title to all equipment after 10 years passes to the BBC.

F. Total estimated cost including: (1) One time payments; (2) Rental or lease costs; (3) Value of equipment and services provided; (4) Other charges estimated over the agreement's life

1. No one time payments are incurred other than construction and/or modernization costs.
2. Present annual payments to BBC for operating the equipment is $4,883,840. This figure will vary from year to year depending upon VOA program time.
3. Including construction and modernization underway, the value of the equipment provided BBC is in excess of $13.4 million. No services are provided.
4. No additional charges other than previously mentioned, are anticipated.

Kavala, Greece

Q. FOR THE RECORD, PROVIDE THE FOLLOWING INFORMATION ON EACH EXISTING VOA RELAY STATION AGREEMENT:

A. Date of agreement

Agreement expired on December 21, 1978. Two attempts to negotiate a new operating agreement have been unsuccessful. Station currently operating by sufferance of the GOG until a new agreement can be brought into force.

B. Equipment and services provided to host government.

Under expired agreement GOG received Thessaloniki facility.

C. Operating restrictions

None.

D. Provisions for shared use of VOA transmitters

GOG provided full use of one 250 KW shortwave transmitter and approximately 7.5 hours per day on a 500 KW medium wave transmitter.

E. Expiration date and termination conditions

See A above.

F. Total estimated cost including: (1) One time payments; (2) Rental or lease costs; (3) Value of equipment and services provided; (4) Other charges estimated over the agreement's life

1. $1.2 Million one time payment in 1966.
2. None presently; however, VOA expects to be retroactively assessed approximately $250,000 per annum from December 1978 to the date of a new agreement.
3. $1810/day cost of programming noted in item D. Thessaloniki station cost was $1.6 million.
4. None.

Rhodes, Greece

Q. FOR THE RECORD, PROVIDE THE FOLLOWING INFORMATION ON EACH EXISTING VOA RELAY STATION AGREEMENT:

A. Date of agreement

Agreement was unilaterally terminated by the GOG in 1978 to coincide with the expiration of the Kavala operating agreement.

B. Equipment and services provided to host government

None.

C. Operating restrictions

None.

D. Provisions for shared use of VOA transmitters

GOG is provided with 3.5 hours per day program time on a 500 KW medium wave transmitter.

E. Expiration date and termination conditions

See "A" above.

F. Total estimated cost including: (1) One time payments; (2) Rental or lease costs; (3) Value of equipment and services provided; (4) Other charges estimated over the agreement's life

1. None.
2. $878/annum.
3. $385/day cost of programming noted in item D.
4. None.

Monrovia, Liberia

Q. FOR THE RECORD, PROVIDE THE FOLLOWING INFORMATION ON EACH EXISTING VOA RELAY STATION AGREEMENT:

A. Date of agreement

August 13, 1959.

B. Equipment and services provided to host government

None. USG agrees to employ Liberian nationals and provide training.

C. Operating restrictions

None.

D. Provisions for shared use of VOA transmitters

None.

E. Expiration date and termination conditions

August 13, 1999. None in effect.

F. Total estimated cost including: (1) One time payments; (2) Rental or lease costs; (3) Value of equipment and services provided; (4) Other charges estimated over the agreement's life.

1. $110,000 acquisiton of station land.
2. -0-
3. -0-
4. None anticipated.

Tangier, Morocco

Q. FOR THE RECORD, PROVIDE THE FOLLOWING INFORMATION ON EACH EXISTING VOA RELAY STATION AGREEMENT:

A. Date of agreement

January 1, 1964.

B. Equipment and services provided to host government

Entire facility (transmitting, receiving, power plant) is the property of the GOM. Station was transferred to GOM at no cost. Station is required to train local staff.

C. Operating restrictions

USG cannot increase total power of the transmitting facility.

D. Provisions for shared use of VOA transmitters

USG bears cost of providing 300 hours of GOM shortwave broadcasting per week.

E. Expiration date and termination conditions

Open ended. Either party may terminate the agreement by giving one year advance notice.

F. Total estimated cost including: (1) One time payments; (2) Rental or lease costs; (3) Value of equipment and services provided; (4) Other charges estimated over the agreement's life

1. Approximately $7 million in value of station and technical facilities when station deeded to the GOM.
2. $6,100 per annum land lease payments to private landowners and the GOM.

3. Present value of the facility is just over $7 million dollars. Annual operating/upkeep costs are $2 million. Cost of 300 hours of shortwave transmissions weekly is $265,000 per annum. Moroccan employee training is approximately $15,000 per annum.

4. The only anticipated continued charges will be the payment of import duties by the USG to the GOM. These payments will vary, however, due to physical size of shipment and mode of shipment. American employees are legally liable for Moroccan income tax and import/export duties on their personal property. This charge would depend upon the GOM enforcing this section of the agreement.

Tinang, Tarlac, Republic of Philippines

Q. FOR THE RECORD, PROVIDE THE FOLLOWING INFORMATION ON EACH EXISTING VOA RELAY STATION AGREEMENT:

A. Date of agreement

May 6, 1963.

B. Equipment and services provided to host government

Training of two technicians on an annual basis. When Tinang RS became operational GOP received Malolos facility.

C. Operating restrictions

None.

D. Provisions for shared use of VOA transmitters

GOP has right to broadcast on shortwave transmitters at Poro Point and Tinang transmitting facilities and the megawatt medium wave at Poro Point with all costs borne by the USG. Hours and frequencies will be mutually agreed upon by both parties in the event GOP exercises this option.

E. Expiration date and termination conditions

Open ended. Termination of agreement can be effected by either party with 18 months advance notice.

F. Total estimated cost including: (1) One time payments; (2) Rental or lease costs; (3) Value of equipment and services provided; (4) Other charges estimated over the agreement's life

1. No one time payments to the GOP were involved. Land was purchased from various landowners and deeded to the GOP.
2. None.
3. $5,000 per year (Salaries for two trainee technicians). Malolos station cost was $.9 million.
4. None anticipated.

Colombo, Sri Lanka

Q. FOR THE RECORD, PROVIDE THE FOLLOWING INFORMATION ON EACH EXISTING VOA RELAY STATION AGREEMENT:

A. Date of agreement

May 12, 1951. (Revised effective 4/16/81).

B. Equipment and services provided to host government

The existing relay station facilities are now property of the GOSL. Services presently rendered are use of three shortwave

transmitters on a time sharing basis. In addition, the USG will provide specialized training of Sri Lankan technical personnel under the employ of the Sri Lanka Broadcasting Corp.

C. Operating restrictions

The Government of Sri Lanka may request temporary cessation of broadcasting by VOA when in their supreme national interests.

D. Provisions for shared use of VOA transmitters

Continued use of shortwave transmitters as in B above.

E. Expiration date and termination conditions

Expires May 14, 1982. Upon final termination or expiration of this agreement, the parties agree, at the option of the GSL, to enter into negotiations for the purpose of vesting entire ownership and use of the facilities in Sri Lanka. In the event this option is not exercised, or in the event agreement as to terms is not reached, the GSL agrees, at the request of the USG, to retransfer title to such facilities to USG, upon payment by the USG of one rupee, and in this event the USG shall have the right to remove the facilities and export them from Sri Lanka duty free. It is understood and agreed that such removal would be undertaken within six months of the date of termination or expiration of the agreement. In the event of removal, the USG agrees to pay GSL the reasonable cost of restoring to its former condition any of the GSL property which may have been modified in order to carry out the purposes of this agreement. Where the USG has erected buildings or parts of buildings the GSL will have the right, if it so desires, to take them over at a disposal value to be mutually agreed.

F. Total estimated cost including: (1) One time payments: (2) Rental or lease costs; (3) Value of equipment and services provided; (4) Other charges estimated over the agreement's life

1. -0-

2. Rental of old station facilities $25,675 annually.

3. Equipment valued at $704,000 was turned over to GOSL upon completion of construction. VOA provides services for 9.45 hours of GOSL programming daily at a cost of $23.25 per day.

4. None anticipated.

Bangkok, Thailand

Q. FOR THE RECORD, PROVIDE THE FOLLOWING INFORMATION ON EACH EXISTING VOA RELAY STATION AGREEMENT:

A. Date of agreement

August 11, 1965.

B. Equipment and services provided to host government

A 100 KW medium wave broadcasting facility was fully constructed for use by the Thai Government. This facility is owned and operated by the Thai Government. Title to the megawatt facility is also rested with the Thai Government. Assistance in expanding the Thai shortwave broadcasting service in the amount of $250,000.

C. Operating restrictions

None.

D. Provisions for shared use of VOA transmitters

The Thai Government is permitted to broadcast on the megawatt medium wave transmitter for a period of 6.5 hours per day. The RTG pays a proportionate share of the primary power costs.

E. Expiration date and termination conditions

March 28, 1983. Either party may terminate the agreement given an 18-months advance notice. The USG has the right to purchase the megawatt facilities in the event of termination for one (1) Baht which equals five cents in U.S. funds. The equipment may be exported duty free.

F. Total estimated cost including: (1) One time payments; (2) Rental or lease costs; (3) Value of equipment and services provided; (4) Other charges estimated over the agreement's life

1. $250,000.
2. -0-
3. $19.24 per day, cost of services noted in item B. Primary power costs are paid by RTG.
4. None anticipated.

Munich, West Germany

Q. FOR THE RECORD, PROVIDE THE FOLLOWING INFORMATION ON EACH EXISTING VOA RELAY STATION AGREEMENT:

A. Date of agreement

June 11, 1952.

B. Equipment and services provided to host government

None.

C. Operating restrictions

None.

D. Provisions for shared use of VOA transmitters

None.

E. Expiration date and termination conditions

Open ended agreement. Either party may give one year notice to terminate.

F. Total estimated cost including: (1) One time payments; (2) Rental or lease costs; (3) Value of equipment and services provided; (4) Other charges estimated over the agreement's life

1. -0-
2. -0- (Note: A separate lease exists between the USG and Bayerischer Rundfunk for the use of radio transmitters, antennas and other facilities at Ismaning for an annual fee of DM 331,000 ($1=DM 2.39), paid by VOA. This agreement expires June 25, 1982.

A preliminary meeting with Bayerischer Rundfunk was held in February to draft a new agreement.

3. -0-

4. None anticipated.

COMMUNICATION METHODS

QUESTION:

GAO has questioned the need and value for each ICA post to have the same array of programs such as American Participant speakers, cultural events, films, videotape recordings and printed materials. What action is ICA planning to take to implement GAO's recommendations to 1) reassess the need for each mission to have all the various communication methods and 2) reduce costs by eliminating those least effective methods at some posts?

ANSWER:

Contrary to the report's finding, USICA posts do not use all media tools or all types of activities unnecessarily. The process of selection and use tends to be self-adjusting, i.e. posts tend to use those media or program approaches which are most effective in the respective host countries. Posts in Europe generally use a different mix of products and approaches than posts in Africa. Media placement has been more fruitful in some countries than in others. Our posts are responsive to opportunities or inhibitions.

In various ways the Agency seeks to assure that posts do not use unnecessary communications tools or methods. First, our annual planning process requires the posts to establish program and policy priorities which help the post and the Agency define types of products to be produced or acquired. Posts occasionally take advantage of a special opportunity to use a media product on a subject not originally included in its annual plan, and are free to revise their plans. Our posts have found that a varied media product mix used over time helps us reinforce the message we seek to convey.

Second, we require the posts to be prepared to justify their use of resources to their Area Office and Agency inspectors. The Area Offices are alert to the possibility that posts may use media tools that are not truly effective. Of course there should always be room for experimentation.

EEO INVESTIGATION

THE USE OF CONTRACT PERSONNEL

FOR

INVESTIGATING COMPLAINTS OF DISCRIMINATION

Q. WHY IS USICA USING CONTRACTUAL PERSONNEL TO MAKE EEO INVESTIGATIONS? WHAT ARE THE BENEFITS OF SUCH AN APPROACH AND WHAT ARE THE COSTS COMPARED TO USING AGENCY PERSONNEL?

A. Between December 4, 1980 and August 31, 1981, a period of only nine months, nine formal complaints of discrimination were filed with the

Agency's Office of Equal Employment Opportunity. This compares with only one complaint filed in the previous year and only one filed since.

In order to complete work on each of these complaints within 180 days as required by Federal Regulations (29 CFR Part 1613), the Agency contracted with Mr. Howard Scharf to conduct two EEO investigations. Mr. Scharf, an experienced EEO Investigator, was formerly Director of Investigations and Inspections at the Economic Development Administration. The other seven investigations were conducted by Agency personnel. No contract help of this kind had been required since 1975.

Mr. Scharf's contract was based on a fee of $35 per hour plus travel expenses. He was paid a total of $19,760 for his services. This compares with an hourly rate of $30 for the Agency's EEO Investigator.

Mr. Scharf's work led in one case to the withdrawal of the complaint and in the second to uncovering irregularities in the examination practices of the Agency.

INTERNATIONAL SATELLITE CIRCUITS

QUESTION:

In 1977 VOA started its first use of international satellite circuits to feed VOA programs to overseas relay stations. Before then shortwave was primarily used to feed overseas relay stations which then re-broadcast the signal to the target area. In 1979 satellite circuits were added to serve the VOA relay station in the Philippines. Subsequently the Dixon California relay station which was used to feed VOA programs by shortwave to the Philippines was closed because satellite service provide much higher circuit quality and reliability. Similar plans called for the closure of the Bethany, Ohio relay station when satellite circuits are completed to overseas relay stations in Europe and Africa.

What is the status of this satellite project?

ANSWER:

In addition to the four Philippines circuits mentioned:

1. In 1977, one circuit was installed to Rhodes, with a branch to Kavala.
2. In 1980, four circuits were installed to England, two to Munich and four to Kavala.
3. In 1981, three circuits were installed to Tangier.

When the budget was prepared, the remaining two circuits in Liberia were scheduled for completion in April 1982. It now appears that they will not be completed until FY 83.

QUESTION:

How much has it cost to install satellite service?

ANSWER:

Cost of equipment and installation paid for directly by VOA for all locations is $418,300.

QUESTION:

What is the annual operating cost?

ANSWER:

At the current payment rates, the total annual cost for the above 18 circuits is $4.0 million.

QUESTION:

What savings have accrued in both position and operating costs since VOA began using satellite circuits?

NON-RECURRING COSTS DUE INITIATION OF SATELLITE TRANSMISSION

	SALARIES	OPER. COSTS	TOTAL
Land Lines from Wash., D.C. to Delano	--	-541,188	-541,188
Rhodes/Kavala Satellite (due moving of RPC Rhodes to Washington, D.C.) -19 Positions	-191,840	-84,320	-276,160
F.E.Satellite, -4 FN Positions	-10,900	-	-10,900
Dixon R.S., -20 Dom. Positions	-687,015	-471,150	-1,158,165
Atl.Satellite,-16 FN Positions	-213,080	-	-213,080
TOTAL:	-1,102,835	-1,096,658	-2,199,493

QUESTION:

If the Europe/Africa satellite network is scheduled to be completed in April 1982, why does the budget request $1.6 million to operate the Bethany, Ohio relay station for Fiscal Year 1983?

ANSWER:

The 1981 budget submission contained a plan to cease operations at the Bethany, Ohio Relay Station and place it in a caretaker status. Since that time, several factors have arisen which have led to a change of plans for this station and in fact the VOA feels there is considerable justification to maintain the Bethany Relay Station in full operational status.

1. In order to improve our signal in Africa and to more effectively disperse our transmitter facilities, we no longer plan to expand our Liberia transmitting station. Although it is planned to install transmitters at another site in Africa, this project will require a minimum of five years to complete. In the meantime, VOA must depend upon facilities on the East Coast to supplement Monrovia coverage in West Africa. Although neither the signal strength of transmissions from Bethany nor Greenville met the VOA signal level criteria in Africa, experience has shown that the signal can be received satisfactorily on a small home type receiver when a clear channel can be found. The following table illustrates typical reception of Bethany at various locations during prime listening hours in Africa.

Location	Number of Observations	% Good	% Fair
Dakar	74	92	8
Freetown	74	60	40
Niamey	80	20	40
Abidjan	19	63	21
Lagos	100	55	45
Yaounde	80	35	20
Kinshasa	88	50	45
Nairobi	790	74	21
Capetown	228	79	13

2. As operating experience has accummulated at the Botswana medium wave station, Bethany has proven to be a primary source of program feeds. This condition prevails during both the evening and morning broadcasting periods. However, it is especially important during the evening when the limited facilities available at Monrovia to feed Botswana are ineffective and higher frequencies on clearer channels from Bethany are used exclusively.

3. Recent expansions in programming for the Caribbean and Latin America have required a reassignment of facilities at all domestic stations. At present, during

the evening broadcasting period in this area, all high power transmitters (250/500 kw) at Greenville and Bethany are assigned to Latin American broadcasts. The loss of the facilities at Bethany would have a severe impact on VOA coverage in this area.

4. Since the decision to close Bethany, VOA has added 129.5 weekly program hours in response to political events in the USSR, Poland, Afghanistan and the Moslem world, and the Caribbean Basin. Although nearly all of these programs (with the exception of the Caribbean Basin) are provided to our overseas relay stations via satellite, experience has shown that high frequency back-up circuits are essential to maintain program continuity due to outages on the links from the satellite terminals to the overseas relay stations. During the peak demand period when VOA is broadcasting simultaneously to Latin America, Africa, South Asia, the USSR in Russian and other Soviet languages, and the Middle East, a minimum of 33 high frequency channels are required from the East Coast. Without the Bethany Relay Station, the VOA has 28 channels -- sixteen double sidebands and twelve independent sidebands. Therefore, even to maintain our present level of operation, the Bethany Relay is essential. Without Bethany, any further expansion of VOA programs during prime evening or morning hours will be impossible.

QUESTION:

Do some VOA relay stations receive the same program by both satellite and shortwave circuits simultaneously?

ANSWER:

All VOA relay stations that receive program feeds by satellite circuits simultaneously receive the identical program feed by short wave circuits. However, the reverse is not true. Certain relay stations with satellite links also broadcast programs not provided by the satellite circuits and consequently must use the short wave circuits. These include:

--	Tangier -	Eight and one-half program hours per day in Russian, Polish, Ukrainian, and English
--	Kavala -	Two and one-half program hours per day in Ukrainian and Czech
--	Rhodes -	One program hour per day in Arabic and Turkish
--	Munich -	Nine program hours per day in English and the Balkan languages

QUESTION:

What is the cost of maintaining dual satellite and shortwave circuits to overseas relay stations?

ANSWER:

In FY-82, the cost of satellite circuits to provide programs to Relay Stations at Woofferton, Tangier, Munich, Kavala, Rhodes, and the Philippines will be $4,008,349. The cost of short wave back-up circuits to these locations amounted to $1,100,000.

VOA considers the short wave circuits to overseas relay stations to be vital links in its system. The following factors should also be included in the consideration of these short wave circuits.

1. Out-of-Band Frequency Usage

U.S. international broadcasters may soon use out-of-band frequencies. This will require extensive use of high power transmitters at each of the domestic relay stations. It will tend to increase usage of these domestic transmitters rather than decrease their usage.

2. Intensified Jamming of VOA

The original estimate of possible annual savings which could be achieved by canceling all high frequency back-up circuits included all transmitters which did not deliver a signal of approximately 1 mV/m to the target area. Since that time, jamming of VOA European languages has increased significantly and makes it essential that other factors be considered.

Twilight immunity is one of the most effective means of overcoming jamming. The use of the 500 kw transmitters on the East Coast permits us to use frequencies higher than those which can be used by the Soviet jammers for a period of approximately five hours in the evening schedule. Although the signal may not meet VOA standards for non-jammed programs, it can be heard by determined listeners. The reverse happens during the morning period to a limited extent.

3. The Loss of Valuable Fixed Frequencies

If the stateside back-up circuits are cancelled, these fixed frequencies would be unused. There is no guarantee that they will be available should they be needed in the future. The only way to insure the availability of a frequency is to use it.

4. The Need for Back-up Circuits to Satellite Feeds

The overall reliability of the VOA satellite circuits is over 99%. However, before reaching a decision, the loss of less than one percent needs to be examined in terms of program hours. For a six month period, March 1981 through August 1981, hours lost varied from 16.49 to 83.17, averaging 34.43 hours a month. The length of the outages also need to be considered since a minute here and there might not be important. However, single outages ranged from 2.40 hours to 13 hours. This means that without high frequency radio back-up circuits as much as 13 consecutive hours could be lost. Thus, while the overall circuit reliability is high based upon the total number of satellite hours, many individual programs would suffer without a high frequency back-up circuit.

EDUCATIONAL, RESEARCH, AND TRAINING ACTIVITIES

QUESTION:

The ICA budget for fiscal year 1983 refers to the dismantling of the Department of Education and the subsequent transfer of the Department's international education and foreign language studies to ICA. Regardless of what happens to the Department of Education, shouldn't the international education and foreign language studies be transferred to ICA? Explain the pros and cons of the transfer. Would there be any cost savings from such a transfer?

ANSWER:

ICA maintains excellent working relationships with the U.S. academic community through its Fulbright program. The international education and foreign language studies programs of the Department of Education, with their emphasis on foreign language and area competence, are not inconsistent with ICA's objectives to promote international understanding and to support U.S. foreign policy interests through academic programming.

We are unaware of any adverse impact such a transfer would have on the administration of the programs.

We have not yet analyzed in detail the financial impact of such a transfer; at this point we are unable to identify any specific cost savings that would result. A transfer of the programs as part of a general dismantling of the Department of Education would, however, presumably result in cost savings as a result of the integration of overall management and administrative structures of the two agencies.

POLICY FOR "SECOND MANDATE" OVERSEAS

QUESTION:

In its February 1982 report, the General Accounting Office concluded that no "second mandate" programs are being conducted and considerable confusion exists as to the role to be played by the overseas posts. Does the Agency plan to establish a policy for carrying out "second mandate" activities overseas as recommended by the GAO?

ANSWER:

As the GAO study observed, there has always been an important element of mutuality in our programming. The best and most often cited examples are the Fulbright academic exchange program and the International Visitor Program. The Office of Private Sector Programs awards grants to exchange and educational organizations in the U.S. which are working to enhance the international competence of Americans and promoting mutuality. These activities derive from the Mutual Educational and Cultural Exchange Act of 1961 which states that its purpose is "to increase mutual understanding between the people of the United States and the peoples of other countries." Earlier, the Smith-Mundt Act of 1948 noted that the Agency's purpose is "to promote better understanding of the United States in other countries and to increase mutual understanding between the people of the United States and the people of other countries."

These activities continue to be an important part of our mission. But we do not isolate the reverse flow of understanding in the Private Sector Program. Mutual understanding is best served by a two-way flow of ideas and information. Although our private sector program will continue to support American understanding of other societies and international affairs, we recognize that American participants in Agency programs overseas also will gain worthwhile insights into foreign perspectives.

We intend to clarify our policy on these programs so that it is understood that American learning is to be fostered as part of on-going overseas activities that should be brought into play as opportunities arise, such as in carrying out our cultural agreements, or as a by-product of our exchanges. We have also asked our posts to specify opportunities for Private Sector linkages and other types of cooperation that will be mutually beneficial. The posts were asked to submit recommendations in their annual plan and to follow up with more detailed messages on needs and interests.

CULTURAL PROGRAMMING OVERSEAS

QUESTION:

In its February, 1982 report, the General Accounting Office also concluded that Washington headquarters is not properly judging the cultural programming needs of the overseas missions by scheduling inappropriate or unneeded programs. What corrective actions are planned to better match the cultural programs to the needs of the individual posts?

ANSWER:

In the year and one-half since the GAO study, most of the problems relating to cultural programs discussed in the report have been eliminated. Those that have not are well on their way toward a satisfactory solution. The key to the changes has been revisions in the annual planning process.

The starting point for this process is the annual cultural questionnaire sent to overseas Posts. This year's version asks specifically for the types of cultural presentations/exhibits the Post wants, the audience it has in mind for these events, and the facilities available locally to support them. The response to the questionnaire must have the approval of the Mission before it is sent to Washington.

When completed, the questionnaires are evaluated by the Arts America staff, which then asks the National Endowment for the Arts to recommend exhibitions and presentations, responsive to the Posts' requirements. After receiving the recommendations of the Endowment, the Arts America staff and each Area office draw up a list of offerings and tentative schedules and ask for field reaction. If a post is not satisfied with the offerings, changes are made by the Agency. Under no circumstances is a Post forced to take a presentation or exhibit. At present, the program is working well, although it is impossible to satisfy every post requirement with a $2 million worldwide budget. Through the revised annual cultural questionnaire and close cooperation of the Arts America staff and the geographic area offices, field needs and interests have become central to the planning process.

The procedures now in effect should assure that no "redundant cultural efforts" are undertaken.

BINATIONAL CULTURAL CENTERS

QUESTION:

The General Accounting Office reported that the Binational Cultural Centers (BNC) are suffering from "benign neglect" and that ICA does not have a stated BNC policy for guiding the overseas missions. GAO recommended that ICA develop a policy outlining the responsibilities of the overseas missions towards the BNC's. What is ICA doing to implement this recommendation?

ANSWER:

Binational Cultural Centers are important to the U.S. in many countries. At one time, the Agency invested scores of officers and millions of dollars in them annually. Forced by shrinking resources to reduce our involvement and support, the Agency has, as the GAO report indicates, increasingly neglected BNCs. The institutions themselves range from a high quality multi-million dollar showcase in Bogota to tiny friendship societies elsewhere where English is taught in small classes. As the report suggests, the de facto Agency policy now should be made explicit, concentrating on management oversight of Agency resources.

We work with the limitation that BNCs are indigenous institutions, responsible to their own locally chosen boards of directors. The fact that the institutions and the USG so often have common interests provides a program opportunity, but they are not creatures of the U.S. Government. We cannot guide all phases of the programs and behavior of foreign domestic institutions.

The Agency is currently (1) identifying all BNCs with which it has program contact, (2) assessing post and area office views of the role of the BNCs in country programs and (3) identifying ways to help BNCs fulfill their proper function, including expanded private sector support. We plan to revise our operating guidelines to clearly state that those programs of BNCs which the Agency supports, such as English teaching, libraries and cultural activities, must be consonant with the

U.S. national interest, and the Agency's mission, and be carried out effectively.

SUPPORT FOR OVERSEAS LIBRARIES

QUESTION:
In its February 1982 report, the General Accounting Office concluded that ICA support for overseas libraries is dwindling. Is action being taken to examine the usefulness of these libraries and determine the future level of their support.

ANSWER:

Support for overseas libraries has dwindled over the years, primarily due to budgetary cutbacks. Given the cutbacks, the Agency is continuing an ongoing review of the usefulness of libraries, as they are currently maintained. We want to be assured that our limited resources for libraries abroad are well used.

Although the number of libraries and average size has shrunk, we remain convinced that their function is vital. More than a score of studies in the past 20 years have helped the Agency re-shape our library program to fit reduced budget levels and changing information needs abroad. These reports all concluded that the libraries are a valuable source of in-depth information about U.S. policies, values and traditions.

In addition, the libraries help the Agency communicate effectively with influential leaders and highly motivated self-selecting users who have a serious interest in the United States. With recent emphasis on greater focus and depth, the libraries are able to serve better the informational needs of influential individuals and groups, whether in government, the media, education or other fields.

As the result of a comprehensive review of library policy in 1978, each PAO is required to prepare a "library rationale," which explains its fundamental purposes in an individual country, as well as a current "library plan" including short and long-range objectives for maintaining and upgrading library services.

Twenty-six professional American librarians service our libraries around the world. In addition, the Agency library in Washington provides research and reference support for the field libraries.

There is no doubt that the condition of individual libraries varies around the world, nor that some libraries have lower standards, in part because of budgetary and environmental conditions. Nevertheless an Agency study in 1975 indicated that those libraries are frequently valuable if only because they are the only source of serious information about the United States. Assuming that policy considerations dictate a continuing need for such an information function in a given country, our goal is to improve the library rather than let it wither. If maintaining a USICA function in a country is no longer important or is financially impossible, we should take a hard look at all aspects of the program, including the library, for elimination.

NEW DIRECTIONS ADVISORY COMMITTEE

QUESTION:

ICA recently set up a new advisory panel of private citizens called the "New Directions Advisory Committee." This group is in addition to ICA's statutory advisory panel -- the U.S. Advisory Commission on Public Diplomacy -- which is charged with advising not just the ICA Director but the President, Congress and the Secretary of State. What is the purpose of the new advisory panel? How will it function; and will there be any duplication of effort with the statutory group?

ANSWER:

The U.S. Advisory Commission on Public Diplomacy is an independent statutory presidential commission. It exercises general oversight responsibilities for the international communications, cultural and educational exchange programs of the U.S. Government. The Commission by law is bipartisan. Its seven members are appointed by the President and confirmed by the Senate for three-year terms. The Advisory Commission reports annually to the Congress, to the President, to the Secretary of State, and to the Director of the USICA on the policies and programs of the Agency.

The U.S. Advisory Commission on Public Diplomacy advises the Agency on a broad range of issues. In the past the Commission has made recommendations in such areas as budget, personnel, agency travel and shipping and office responsibilities and reporting procedures. The distinguished membership of the Commission includes a college president, attorney, public affairs consultant, labor leader and retired executive.

In contrast, the members of the New Directions Advisory Committee are appointed by the Director of USICA. The committee has a specific and finely focused role. The scholars and philosphers on the New Directions advisory committee will be identifying worldwide intellectual trends and the philosophical dimensions of political, social and economic events.

The private sector advisory committees and the U.S. Advisory Commission clearly do not duplicate each other. They are distinct in their composition and responsibilities.

STATUS OF AGREEMENTS

QUESTION:

Negotiations between the U.S. and Sri Lanka, Botswana, Greece and several Caribbean nations are underway to maintain or establish VOA transmitter relay stations on foreign soil. Further discussions are planned with other nations to replace old operating agreements that are expiring. Some of these negotiations may require costly concessions.

Who conducts the negotiations for VOA and what problems have been encountered in pursuing these new agreements?

ANSWER:

Part I. The United States Ambassador customarily heads the American negotiating team. Depending upon the expected complexity of a negotiation the number of USICA representatives may vary from as few as two to five or more. A team may include officials from the General Counsel's office, Voice of America's Engineering office, the USICA post in the country, the Agency's Contracting office and one or more other members of the U.S. Embassy staff in the host country.

Part II. Each negotiation presents its own problems and until recently few difficulties were encountered in executing reasonable agreements. In recent negotiations however, difficult issues are becoming more common. Most frequently encountered problems relate to: duration of agreements, annual cost

for land lease, interference with other services, rights and privileges of the American staff, sharing of facilities, control over program content.

QUESTION:

What agreements does VOA have pending further negotiation or formal approval?

ANSWER:

VOA has under active negotiations: an operating agreement with Sri Lanka; an operating agreement with Botswana for the shortwave facility planned there; with the Bayerischer Rundfunk in Germany for an operating lease of the Ismaning transmitting station near Munich; and an amendment to the operating agreement with the British Broadcasting Corporation for operation of VOA transmitters at Woofferton. Negotiations for the operating agreements for the relay stations in Greece are currently suspended and await the signal from Greece to resume. Finally, the operating agreement with the Thai Government for the Bangkok Relay Station expires in May 1983 with preliminary preparations for renewal negotiations just now getting under way. While preliminary negotiations have already taken place with governments on the Caribbean Basin, negotiations for agreements will not be undertaken seriously until approval of the VOA Caribbean expansion plan is approved by Congress. In short, nearly all of the VOA operating agreements are or are expected to be under current discussion.

QUESTION:

What are the expected costs and operating terms of these agreements?

ANSWER:

There are expected to be few changes in renewals of existing operating agreements except for the Greek agreement which as yet has not been fully negotiated. Under the expired agreement the VOA did not pay an annual land rental whereas under a new agreement we expect to pay from $310,000 to $565,000 per year over the life of the agreement. This is in addition to approximately $810,000 (including a $150,000 increase) the U.S. pays annually for increased GOG programs carried over VOA facilities. In addition to these costs, the VOA will furnish to the GOG a 250 kw shortwave transmitter, two directional antenna systems and associated switching equipment. This equipment is estimated to cost $2.2 million. Additionally, the U.S. can expect to make one-time land rental payments of approximately $250,000 for each of the years for which there was no agreement.

Sri Lanka: The Sri Lanka project is expected to cost $95.7 million. Under the initialled agreement for the privilege of operating there, the U.S. would furnish the SLBC with a 100 kw transmitter valued at $632,000 or its cost equivalent in alternative radio equipment; there is also an annual land lease cost of $25 per acre; the VOA also is to provide at its expense specialized training of selected technical personnel from the Sri Lanka Broadcasting Corporation. The duration of the operating agreement would be for two consecutive ten year periods.

Botswana: The Botswana shortwave project is expected to cost $29.615 million. While an operating agreement is in effect for the medium wave facility there it will not be modified to include the new shortwave facility until a study of potential interference can be completed and the conditions accepted by both the GOB and the U.S. The study has been done and the findings are presently being analyzed by both the GOB and VOA engineers. We expect to meet shortly with the GOB on this matter to resolve any areas of difficulty but until this is completed and the present operating agreement modified we are unable to ascertain the cost to the U.S. or the operating terms.

Caribbean Basin: The VOA has requested $11.2 million to construct a number of medium wave facilities throughout the Caribbean basin. Stations are planned for Antigua, Grand Turk Island, Grand Cayman Island, and Jamaica or a second station on Grand Cayman. Only on Antigua does VOA have any sort of agreement and it is an open ended arrangement with the GOA which permits VOA to install and operate a facility on property presently leased by the U.S. Air Force. There is an annual fee of $12,000 for the privilege. Should VOA decide to relocate on the island a new agreement will have to be negotiated.

Grand Cayman: Preliminary negotiations have been conducted with the Cayman Government resulting in the joint preparation of a draft agreement for the installation and operation of a facility on Grand Cayman. Cost figures have not been established.

Grand Turk: No agreement has been reached. Preliminary discussions only have been held which were favorably received by the Turk/Caicos Government.

Jamaica: No discussions have been held which lead to an agreement although informal discussions have been held on several occasions.

QUESTION:

In the absence of any agreement, has VOA incurred any costs above the normal operating costs to continue its broadcast? Provide details of these costs.

ANSWER:

With the exception of the VOA stations in Greece, all operating stations in the VOA network are currently covered by valid agreements.

The operation of the two VOA stations in Greece, one near Kavala, the other on the island of Rhodes, are continuing by sufferance of the GOG. Except for a one-time purchase of fuel in July of 1981 when we were obliged to pay approximately $50,328 for duties and taxes the VOA has not incurred any operating costs above the normal. Following the above payment a waiver was granted by the GOG eliminating any further payments of duties and taxes until and if a new agreement was reached. In February we were informed by Esso/Pappas, the stations fuel supplier, that VOA was going to have to pay a Stamp Tax on future fuel purchases. The Stamp Tax was not specifically exempted in the earlier waiver and while it amounts to only 2.4 percent, it will be an additional $92,600 annually. The Stamp Tax as well as the Duties and Taxes paid in July 1981 have been paid under protest.

QUESTION:

What is VOA doing to reduce the vulnerability of possible losses of VOA relay stations?

ANSWER:

While the loss of any relay station is not imminent, at least two of them face an uncertain future until their status is regularized by an agreement to supercede an agreement that has expired. Those stations are located at Kavala and Rhodes, Greece. While we are hopeful that their status will be placed on agreed secure footing we have been seeking alternate sites from which a clear signal can be sent to the same target areas. This examination has not yet gone beyond the stage of contingency planning.

RELOCATION TO HHS-NORTH BUILDING

QUESTION:

You are requesting $3 million in fiscal 1983 for consolidation and relocation of ICA. Do you still plan to relocate to the HHS-North Building? The justification states that $3 million is Phase I funding. What is the total estimated cost of your move? Given the fact that funds are tight what savings will accrue to justify this expenditure? For the record, provide a breakdown of the estimated costs of your move.

ANSWER:

A White House decision was reached on March 19 that GSA will seek to lease the entire Donahoe Building, a new office building at 4th and C Sts., S.W., as the new headquarters of USICA. The Voice of America will remain in the HHS-North Building, across the street from the Donahoe Building. These two locations are sufficiently

close to achieve the Agency's objectives of improved policy direction for all elements and better coordination of program activities. Except for VOA, our television studio, photo lab, and Foreign Press Center, this building should accommodate all of ICA Washington offices. Our estimate for savings accrued is approximately $20,000 from elimination of redundancies. The anticipated increased productivity is another real savings.

The General Services Administration is preparing a prospectus for the proposed move of USICA staff and equipment to the Donahoe Building, which will be submitted shortly to the Public Works committees of the Congress.

The FY 1983 budget request for $3 million represented the costs of the first phase of a move that was based on a different set of assumptions than those involved in the new building. The $3 million included is for rental costs ($324,000), alteration of office and technical space ($1,600,000), labor costs related to movement of personnel, printing plant and communication facility ($425,000) and relocation of technical office equipment such as word processors and Wang computer ($651,000).

Including relocation of HHS personnel the cost of the original plan might have totaled $15 million. With this new development, we are preparing revised estimates for FY 1983. This committee will be informed as soon as they are available. The preliminary indications are that the availability of the new building will expedite the move, save funds in total, but with a compressed schedule, cost $3 million or more in FY 1983.

BROADCAST FLEXIBILITY: RESPONDING TO CRISES

QUESTION:

I have a question about VOA's ability to respond quickly to changing political needs. For instance, as a result of the Polish crisis you have more than doubled Polish language broadcast hours per week since December 1981. Yet, I note that we have just added a new language for broadcasts to Afghanisan -- more than one year after the crisis there. And, in Central America we have not increased broadcasts.

What is the process for responding to crises?

ANSWER:

The Director of VOA is an Associate Director of the USICA. The USICA receives policy guidance from the Department of State and the White House. VOA's broadcast priorities are formulated in the context of this guidance. VOA did not respond to the crisis in Afghanistan as quickly as it did the Polish crisis because of the lead time required to recruit and launch a new language service following considerable deliberations over which initiatives would represent the most effective VOA response to the crisis in Afghanistan. Broadcasts in Dari were subsequently begun in September, 1980, and a Pushtu service will be on the air in about six months.

QUESTION:

How are VOA's language broadcast priorities set? Who is responsible for reviewing these priorities and how often are they reviewed?

ANSWER:

Every two or three years an inter-Agency group reviews VOA language broadcast priorities. Such a review has just been initiated by VOA. The review takes into account U.S. foreign policy priorities, frequency allocations, and the availability of qualified foreign language broadcasters. The current review should be completed within the next several months.

QUESTION:

Why are there no plans for increased broadcasts to Central America?

ANSWER:

VOA now broadcasts five and one half hours daily in Spanish and four and one half hours in English during prime morning and evening hours. The English schedule includes a 30-minute program called "Report to the Caribbean" and an hour-long "Report to the Americas." VOA's Spanish programs are addressed to listeners in all the Spanish-speaking states of the hemisphere. Because of the nature of events, the news on the Spanish program is heavily oriented toward Central American topics. The proposed Caribbean-Central American network of medium wave relay stations will substantially increase the size of our audience in this area since medium-wave (AM) listening is far more common than short-wave listening. Surveys done in the last two years suggest that medium wave broadcasts will make VOA Spanish and English programs available to millions of potential listeners who do not have short-wave receivers. VOA does not plan to consider any program expansion until the impact of the new network can be assessed.

BOTSWANA RELAY STATION

QUESTION:

VOA has a medium wave relay station in Botswana without staff housing. Under the shortwave station augmentation project VOA now plans to install four shortwave transmitters, antennas and staff housing at the existing facility to provide shortwave broadcast coverage to Southern and Eastern Africa.

Why is it necessary now to install staff housing at the Botswana Facility?

ANSWER:

The nearest city to the Botswana medium wave and planned shortwave station is Selibwe-Phikwe, a relatively small provincial settlement with a bare minimum of rental housing. The staff of the medium wave station has been reasonably successful in finding housing although it is well below U.S. standards. There is insufficient housing to accommodate the additional staff required for the shortwave facility and funds have been requested to construct the needed housing units. The housing will be constructed in the city of Selibwe-Phikwe, not on the station proper.

QUESTION:

Why does VOA find it necessary to provide both medium wave and shortwave coverage of Southern Africa?

ANSWER:

Generally, both shortwave and medium wave coverage is not provided to the same reception area from the same transmitter site. The effective range of a 50 kW medium wave transmitter (with a non-directional antenna) is on the order of 400 to 600 miles from the transmitter at night. Typical shortwave coverage is provided beginning at a point 500 miles from the transmitter and ranging 800 miles. Thus, there is not really any significant duplication of coverage in Southern Africa.

QUESTION:

Which do South Africans listen to the most, medium wave or shortwave radio broadcasts? How much additional listenership and area of coverage is expected from the new shortwave transmitters?

ANSWER:

A map comparing the range of the Monrovia and Botswana shortwave broadcasting facilities is attached.

The population of the twenty countries which lie wholly within the range of the Botswana shortwave transmitters approaches 159,000,000. Thirteen of these countries having a population of 113,000,000 and 15,000,000 receivers lie beyond the range of the Monrovia shortwave transmitters. Botswana will also provide

coverage to parts of four additional countries beyond the range of the Monrovia facilities. These include Ethiopia, Sudan, Somalia, and part of Zaire having a population of 77.5 million and 5,120,000 receivers.

It is easy to imagine that most people would prefer to listen to medium wave broadcasts over shortwave broadcasts. However, a country like Botswana has only three medium wave frequency assignments. One of these assignments is operational, one is used in conjunction with the VOA, and one is presently unused. There are no VHF-FM stations. Consequently, a large portion of the population would be expected to listen to shortwave from both domestic and international broadcasters. South Africa is an example of the opposite extreme with a well developed domestic medium wave and VHF-FM sound broadcasting network.

SOVIET JAMMING OF BROADCASTS

QUESTION:

To what extent has Soviet and Eastern block jamming of VOA broadcasts increased and what are you doing to counter it?

ANSWER:

Prior to August 20, 1980, VOA enjoyed the luxury of having none of its broadcasts jammed. However, on August 20, the USSR initiated jamming against VOA broadcasts to the USSR in Russian, Georgian, Armenian, Ukrainian, Latvian, Lithuanian, Estonian, and Uzbek.

On December 28, 1981, jamming from transmitters located within the USSR commenced against VOA Polish programs. Approximately one month later on February 1, 1982, Bulgaria resumed the jamming of VOA Bulgarian broadcasts.

VOA's response to this situation has been to increase our presence on the air to the extent possible. This has been accomplished by (1) increasing the number of daily program hours and/or (2) increasing the number of transmitters assigned to jammed programs.

In the case of VOA Russian, the daily program hours were increased to 13 hours per day from 11 hours per day. Generally, from three to five additional transmitters are now assigned to these programs. The VOA Polish service has increased from two and one-half hours per day to seven hours a day. Prior to the resumption of jamming, Polish programs were carried on three to four transmitters. Today, Polish is carried on five to nineteen transmitters depending on the time of day.

The assignment of broadcast frequencies which are selected to take advantage of twilight immunity is one of the most effective means of overcoming jamming. In practice, this consists of broadcasting jammed programs from certain transmitter locations on frequencies which will propagate to the reception area but are higher than the frequencies that will propagate from the jamming transmitter sites. Thus, the attempt to jam is ineffective. Insofar as European reception areas are concerned, these optimum VOA transmitter locations are in Tangier and Greenville.

Several additional ideas have been considered to counter the jamming. These include (1) additional program expansion, the number of hours broadcast; (2) leasing transmitter time at commercial stations or stations owned by other administrations and (3) the use of a long wave transmitter.

Questions Submitted by Senator Ernest F. Hollings

REPROGRAMMING REQUEST

QUESTION:

The ICA plans to shift resources by reprogramming in the radio construction account to meet urgent new requirements --specifically a network of medium-wave

stations to broadcast to the Caribbean Basin and Central America; yet there are no plans to increase the number of broadcast hours to this region.

A. When can we expect these new stations to be operational?

ANSWER:

Although funds have not as yet been made available, progress has continued on VOA's engineering design and preparation of technical specifications for the new facilities in the Caribbean. If funds are made available by June 1, 1982, on-air dates for the individual stations are projected as: Grand Cayman's transmitter for Central American coverage on August 1, 1983; Grand Turk on October 1, 1983; the permanent Antigua transmitter on November 1, 1983; the replacement Marathon transmitter on December 15, 1983; and Grand Cayman's transmitter for Jamaican coverage on December 1, 1983.

QUESTION:

B. When operational, how much of an additional audience do you see these stations reaching?

ANSWER:

Even without an increase in VOA broadcast hours, these new transmitters will substantially increase the size of our audience in the Caribbean and Central America. USICA surveys - done in the last two years - suggest by putting us on medium wave, the proposed relays will make VOA Spanish and English available to millions of potential listeners who do not have shortwave receivers.

QUESTION:

C. Will these additional facilities sufficiently increase U.S. influence to counteract Cuban and Soviet efforts in this sensitive region?

ANSWER:

VOA now broadcasts five and one-half hours daily in Spanish and four and one-half hours in English. The English schedule includes a 30-minute program called "Report to the Caribbean" and an hour long long "Report to the Americas" which are targeted, respectively to the nations in and around the Caribbean basin and to English-speakers throughout Central and South America. VOA Spanish programs are addressed to listeners in all Spanish-speaking states of the hemisphere. This programming, together with the expanded facilities, should make VOA competitive with other broadcasters in the area.

PROGRAM PLANS FOR THE CARIBBEAN AREA

QUESTION:

Are other programs (other than VOA) in the planning for this region?

ANSWER:

USICA has responded to the growing Cuban influence in the Caribbean basin by putting more manpower on site to provide leadership for our program of public diplomacy. In the past year we have supplemented a local national staffer in the Bahamas with an American Public Affairs Officer assigned to the Embassy, and a second local national. In Santo Domingo we have added an American Information Officer to the USICA staff. We have augmented the budget of USICA Barbados by almost half so that program attention can be brought to bear on the chain of English-speaking island republics of the eastern Caribbean. In very recent weeks we have augmented the American staffs in three Central American capitals with the placement of Information Officers in Nicaragua, Honduras, and Costa Rica. Major functions of the Information Officer

include placement of the American view on major area/world issues with the local media and into the hands of local opinion leaders; and feeding back to the White House, State Department and the VOA an on-going commentary on local developments in country.

In conjunction with the Partners of the Americas we are planning a seminar for next fall for small business associations in the Caribbean. We are expanding our academic exchange programming with the University of the West Indies.

Thus, the expanded VOA effort in the Caribbean basin is being developed as part of a reinforced program of face-to-face dialogue with opinion leaders, of quality placements in the local media, and of accelerating exchanges in the academic world.

AFGHANISTAN

QUESTION:

Realizing the continued occupation by the Soviet Union of Afghanistan and the heroic efforts being made by the Afghan Freedom Fighters as against incredible odds:

A. What is the current level of VOA broadcasting to Afghanistan?

B. Will the planned 30-minute Pushtu broadcast effectively reach the 7 to 10 million Pushtu speakers in Afghanistan or are there plans to increase the number of broadcast hours in the future?

C. Are there plans to up the number of broadcast hours in the future?

D. Do you have estimates on how our broadcasts to Afghanistan compare with Soviet broadcasting?

ANSWER:

VOA now broadcasts one hour daily in Dari -- the language of the educated urban Afghan population. In addition, broadcasts in English and Farsi can be heard in Afghanistan.

The planned 30-minute Pushtu broadcasts will be directed toward Afghans in the rural areas many of whom are actively resisting the Soviet occupation of their country. Our current broadcast signal to Afghanistan is satisfactory, but it is not as strong as that of some other international broadcasters. The proposed expansion of our Sri Lanka Relay Station would greatly enhance the quality of our signal to the area. Given budgetary and recruiting constraints and the transmitter times we now have available, VOA does not plan to increase its number of broadcast hours to Afghanistan. We would, of course, review this situation once construction of our Sri Lanka Relay Station is underway.

The USSR broadcasts nearly nine times as many hours per week to Afghanistan as does VOA.

Two stations broadcast from the USSR for a total of 59.5 hours per week in the two principal Afghan languages, Dari (Afghan-Persian) and Pushtu. Radio Moscow broadcasts 21 hours weekly in each language (42 hours), alternating the two language services every hour for six continuous hours of programming each day. In addition, Radio Dushanbe, a regional station located at the capital of the Tadzhik S.S.R. about 500 miles north of Kabul, beams 17.5 hours of weekly programs in Dari to Afghanistan.

COST EFFECTIVENESS OF BROADCASTS

QUESTION:

A. How do you rate the cost effectiveness of VOA broadcasts?

B. Can you give us any specific evidence of increased influence in Poland as a result of the increase by 31.5 hours per week in broadcast time during FY 1982?

C. Who determines the content of VOA broadcasts and what is the gist of what is being said?

D. Who determines and prioritizes the areas of broadcasts?

E. How long does it take to initiate a new broadcast?

F. In your FY-83 appropriations request, you call for a net increase of $7.3 million to modernize and re-equip VOA'S domestic studios and power distribution system. Are there specific areas that will be the principal beneficiaries of this modernization?

ANSWER:

Cost Effectiveness

In dollar terms there is really no way to evaluate VOA's cost effectiveness. Its weekly audience, conservatively estimated at 100,000,000 listeners, would translate to about $.02 cents per week per listener. Its real cost effectiveness, however, comes from the fact that it is the most effective medium of international communication for reaching large audiences, and no other medium can match the immediacy of radio broadcasts.

Polish Effectiveness

Because censorship was reimposed in Poland, the volume of audience mail cannot give us an accurate indication of our increased effectiveness. From the mail we do receive, however, and from first person accounts by travellers to the West, we do think we are effectively countering the Soviet jamming. Polish citizens consider VOA broadcasts more important than ever as a means of news and information about world and domestic developments. An American newspaper correspondent stationed in Warsaw reported that listening to VOA in Poland is "virtually universal." VOA's own correspondent noted people volunteered to him that they listen to VOA "all the time." Congressman Bethune, after a recent visit to Poland, said Polish people "are kept up to date by the VOA."

Content of VOA broadcasts

VOA broadcast policy is set out in its congressionally legislated Charter. The VOA Program Director and his Division Chiefs are responsible for assuring that the precepts of the Charter are followed. These decisions are made in consultation with VOA's Deputy Director for Programs and Policy, its Deputy Director and its Director.

Priorities

The Director of the Voice of America is an Associate Director of the USICA. Priorities for areas to which VOA should broadcast, and the languages in which it should broadcast, are determined by the USICA in consultation with the Department of State, the NSC, and other interested U.S. Government Agencies.

How Long

The major factor in determining the time it takes to initiate a new foreign language service is the availability of talent. Depending on the availability of qualified foreign language broadcasters, it can take from 90 days to eighteen months to start a new language service.

Areas That Will Benefit From the Modernization of VOA's Domestic Studios:

19 of VOA's 26 studios are operating with 1954-vintage electronic equipment which must be replaced by state-of-the-art electronics. Patchwork repairs and maintenance cannot keep the equipment operative indefinitely and replacement parts are for the most part unavailable for this old, outdated equipment. This modernization project will reequip these 19 studios with the current state-of-the-

art equipment enabling VOA to take full advantage of modern broadcasting techniques and equipment capabilities which will have a significant impact on the quality of VOA programming worldwide and on the methods with which it is produced.

LOS ANGELES PRESS OFFICE

QUESTION:

The reprogramming request includes positions to establish a Los Angeles Press Office.

1. When did Los Angeles become a center of international news?

2. When President Nixon was in office, he traveled to San Clemente without the benefit of a Los Angeles press office. How have things changed so that such an office is now required?

ANSWER:

A small West Coast regional branch center would fill an important gap in Center operations and significantly enhance overall efficiency and effectiveness. In FY-1982 with a staff of three, it would cost $237,747, including start-up costs, and $170,075 continuing annual costs in FY-1983.

As the politics and population both have shifted West, the area west of the Rockies has grown in importance in the world's media. A recent U.S. Foreign Press Center tour of conservative think tanks was heavily focused on organizations in California and Colorado. Secretary Haig's visit to the Far East, and visits to the U.S. by key Far Eastern officials are further evidence of a growing Pacific Basin orientation.

We estimate that the U.S. Foreign Press Centers now program approximately 175 working journalists in the western states each year. In addition, there are approximately 200 foreign correspondents on the West Coast, with more media organizations planning to establish offices there. French TV-2, for example, has just announced plans to open a Los Angeles office. All of these activities would be facilitated by the presence of an ICA foreign press specialist on the scene.

We believe that the plan enjoys wide support and would be a major asset for the Agency.

LEASING AUTHORITY

QUESTION:

Could you explain your need for leasing authority and give some specific examples where problems have surfaced?

ANSWER:

The Agency currently is limited by law to periods not exceeding ten years when negotiating the terms of any leasing of overseas real property. When VOA is committing major capital improvements funds in the millions of dollars, it simply is not good business for us not to have some assurance that our investment will be protected for periods of time longer than ten years.

The proposed Sri Lanka project is one good example; we propose to spend in excess of $96 million to construct a facility which, under the limitations of the current law, could be jeopardized in the course of renegotiating a new lease with a foreign

government in only ten years time. Where such heavy capital expenditures are involved, the Agency should be empowered to negotiate leasing terms of not less than twenty years. Such a timeframe is reasonable both from any foreign government's point of view as well as from ours in terms of assuring a reasonable period of operation in return for the U.S. Government's investment.

ENGLISH LANGUAGE TEACHING PROGRAM

QUESTION:

In your statement you mention that you are seeking legislative changes that would enable ICA to sponsor its own English language teaching program. Approximately how many participants would be involved?

ANSWER:

Most of our large English teaching programs overseas are currently administered by Binational Centers. These programs would be unaffected by the requested changes in our legislation. Rather, we anticipate that the changes would permit the opening of additional programs in certain parts of the world, such as Africa, where the development of English teaching programs is difficult under the current legislative restrictions.

There are currently approximately 200,000 students enrolled in the Agency's English teaching programs at any one time. At the most, we anticipate that enrollment might increase to 500,000 under ideal circumstances, including the change in legislative authority.

QUESTION:

What would the staff requirements be to run the program?

ANSWER:

An expansion of our English teaching program would place an additional oversight burden on our professional English teaching staff. Depending on the success of the expansion effort, an incremental increase in the English teaching staff may ultimately be required. However, we are not projecting any staff increases for that function over at least the next two or three years.

EMPLOYEES

QUESTION:

Over the past 2 years and continuing into FY 1983, the number of ICA overseas positions filled as compared to positions authorized has been dropping.

Are there any specific recruiting problems?

The effect of your reprogramming proposal is to use funds Congress appropriated for educational and cultural exchanges for personnel. President Reagan budgeted for a personnel cut last September. Why doesn't the Administration make a straight-forward request for the personnel by submitting a supplemental budget request?

ANSWER:

There are no particular recruiting problems for our overseas positions. Reductions in our authorized ceiling during FY 1981 brought positions and employment down from previous levels. There was some lag in effecting employment cuts after positions were reduced thus giving the appearance of an unusually low vacancy rate in our overseas positions. Full-time permanent employment overall

was scheduled to drop to 7,513 from the ceiling of 7,908 established in January, 1981.

With OMB's approval, we were able to halt the reductions before the 7,513 level was reached. Our employment ceiling was raised to 7,717. Thus, in FY 1982 and FY 1983 our employment is expected to stabilize. The reduction in overseas work-years in FY 1983 results from a decrease in the Junior Officer Training program. Other positions will be filled at approximately the same level in FY 1982 and FY 1983.

As noted above, the Administration reconsidered the personnel cut that was projected for USICA in the March and September, 1981 revisions to the FY 1982 budget. The Agency had consistently maintained that preserving effective staff levels was our highest resource priority.

With the priority assigned to maintaining our staff, with the employment ceiling relief from OMB, with Agency employment well above the 7,513 level on October 1, 1981, and with overall budget constraints discouraging supplemental funding it was determined that the Agency would reprogram funds to cover its staff needs. The Agency also had to accommodate a $10 million reduction in our Salaries and Expenses account from the March, 1981 estimates to the Continuing Resolution level, to absorb part of the FY 1982 Federal pay raises and fund a number of high priority needs. These reprogramming proposals were forwarded to the Committee on March 1, 1982.

In FY 1983, the Agency proposes to increase Educational and Cultural Affairs programs to $100 million, the level noted in the report accompanying the Continuing Resolution.

WIRELESS FILE IMPROVEMENTS

QUESTION:

Your request includes $1,000,000 for improving reception of the Agency's Wireless File. Will this improvement lead to any additional listenership?

ANSWER:

The request for $1,000,000 for improving reception of the Agency's Wireless File will improve the quality of the product received at the Posts. As funds allow, we will be installing communication circuits to replace the antiquated high frequency reception method currently used. While this will lead to quicker and more effective preparation and distribution of a higher quality product, it will not necessarily increase the number of recipients.

CHANGE IN SRI LANKA SITE

QUESTION:

Please explain the reason for shifting the site of the Sri Lanka project and modifying the scope of the project to the extent that the costs increase by $29.3 million?

ANSWER:

The original site for the Sri Lanka expansion project was on a plot of land approximately 16 miles North of Colombo. The Receiving Plant for the present Colombo Relay Station is located on the North end of the site. The site lies approximately three air miles from an international airport which serves the Colombo area with the instrument approach track approximately one mile distant.

The potential for interference to aircraft operating into and out of the nearby airport was recognized from the outset and led to a study of the potential risk. The study was conducted by the U.S. Naval Post Graduate School at Monterey, California and concluded that transmitters of the 250 kw power level could cause interference to aircraft communications and navigation devices. The likelihood of an accident being caused by such interference was considered by VOA to be too great and subsequently led to a search for an alternate location. Such a location, near Puttalam, was found after several months of exhausting investigation. The Sri Lanka project, as approved for FY-82, amounted to $66,363,814. The change from the original construction site requires the construction of family housing which with other adjustments increases the project cost by $6,296,000. The change in scope which would replace four 250 kw transmitters with a like number of 500 kw transmitters would increase the project cost by $23,045,000 to a total of $95.705 million. The bulk of this increase - $15.5 million - is due to a much larger power generating capacity necessary to power the larger transmitters.

PRIVATE SECTOR PROGRAMS

QUESTION:

Can you give us some specific examples of private sector programs that will be restored as a result of the $1,164,965 increase called for in your FY 83 budget request?

ANSWER:

The private sector program area most significantly affected this year included those programs that are designed to specifically address major Agency goals and objectives on a one-time basis. These programs were reduced substantially in number this year. Most of our longer-term cooperative efforts and programs that we have supported because of treaties, Executive Agreements, or other bilateral relations are being maintained, albeit at lower levels of funding than in Fiscal Year 1981. Most of the restoration for Fiscal Year 1983 is for the former category of programs. This year, such programs concentrated on thematic areas including Leadership for the 1980s, U.S. Political and Security Policies, the U.S. Economy and the World Economic System, Solving the Energy Problem, American Society in a Changing World, and Arts, Humanities and Sciences in America. The level of funding for any individual program will, of course, depend on the quality and number of proposals received and the areas of emphasis that most support the Agency's role in achieving the U.S. Government's foreign policy objectives.

EDUCATIONAL AND CULTURAL AFFAIRS

QUESTION:

For fiscal year 1983 you are requesting a $12,000,000 increase in educational and cultural affairs programs. Will there be a corresponding increase in the number of participants in Academic and International Visitor exchanges?

ANSWER:

Of the increase requested, approximately $8 million is for cost increases and other built-in changes to maintain current program levels and $4 million is for enhancement of academic and IV exchanges and private sector programs.

The program augmentation provides for an increase of 220 in the number of directly supported grantees under the Academic (122) and International Visitor (98) exchange programs. In addition, the increase provides for expanded exchanges in cooperation with private American organizations engaged in non-profit international communication activities. The exchanges supported under such programs are not included in our directly supported grantee count. Such programs are included in our request for the Office of Private Sector Programs and the Office of Academic Programs.

QUESTION:

What is the projected average cost of a Fulbright Fellowship?

ANSWER:

For a foreign Fulbright student in Fiscal Year 1982, we are projecting a unit cost of $10,700 plus international transportation. Support at this hypothetical level includes full maintenance for an academic year, transportation within the United States, tuition and books, and a small in-transit allowance. The actual cost to the United States Government of many of our grants is well below this estimate, since the contributions of other governments and American educational institutions expand the reach of the program significantly beyond our own resources. For many students, American educational institutions provide tuition waivers, assistantships, and other forms of partial financial or in-kind assistance. Grant benefits for American students vary greatly from country to country and are based, in each individual case, on information received from our overseas posts and other sources. For FY 1983 Fulbright cost is projected at $11,700.

QUESTION:

How does the average Federal cost of the Fulbright participant compare to the average Federal cost of the Georgetown University sponsored International Student Exchange Program?

ANSWER:

A direct comparison is difficult to make for a variety of reasons. The Fulbright Program is almost exclusively a graduate and post-graduate level program; the ISEP Program is largely for undergraduates. The Fulbright Program is designed to ensure the participation of the future leaders of this and other countries by guaranteeing nationwide competitions on the basis of merit here and abroad. The ISEP Program is designed to facilitate an "exchange of places" between students in this country who are planning to study at participating institutions overseas and foreign students who are planning to study at participating institutions in the United States. The Fulbright Program is based on the premise that the long range foreign policy interests of the United States justify the expenditure of federal funds to make possible the participation of American and foreign scholars on the basis of merit regardless of their own financial resources. The ISEP Program is based on the premise that it can provide a needed infrastructure to ameliorate the barriers that stand in the way of American and foreign students who wish to pursue their studies in each other's countries.

Federal funds support only the administrative structure of the ISEP program. No federal funds go directly to the student participants in the program. For the program underway this fiscal year, we calculate these federally supported administrative expenses to be $1,992 per participant. The largest of the private organizations administering our Fulbright student program is being funded this year at a level of $1,362 per student for administrative expenses. In addition, many of the students in the Fulbright Program receive grant benefits. This fiscal year, our estimate for average grant benefits is $10,700 for a student receiving full maintenance for an academic year, transportation within the United States, tuition and books, and a small in-transit travel allowance.

QUESTION:

ICA plans to discontinue the International Student Exchange Program. Please explain the reasons for terminating the project?

ANSWER

Our understanding of the Congress' intent since the inception of the program was to fund a four-year pilot project. This Fiscal Year is the fourth year of that pilot project. As we have explained to the University, there are a large number of organizations that seek and compete for funding from the Agency every year. Next year, after the completion of the pilot project, we have

suggested that the University submit a proposal to be considered along with the others we receive.

QUESTION:

We have a letter from Georgetown University that indicates problems with ISEP resulting as much from lack of timely appropriations by ICA as anything else. Would you care to comment on this?

ANSWER:

An agreement for a portion of this year's funding of the pilot project was sent to Georgetown University for signature on March 22. Because of budget uncertainties during the first quarter of this Fiscal Year, we got a late start on the implementation of this year's program for all exchange categories. Of some 25 cooperative arrangements with private organizations for academic programs, only a few have been implemented to date, and most of these were accomplished during March. Even our Binational Fulbright Commissions and Foundations overseas are just now receiving significant transfers of their allocated funds for this year's programs.

EDUCATIONAL AND CULTURAL AFFAIRS

QUESTION:

The fiscal year 1983 estimated program cost for the Academic and International Visitors Exchanges is $84.3 million of which $73.7 represents the requested appropriations. How much of the program cost is for direct support of grantees, i.e., travel, tuition, stipends, perdiem, etc.?

ANSWER:

Of the $73.7 million requested in appropriations for Academic and International Visitor programs, approximately $53.2 million is for direct support of participants in the program. Other program funds include Student Support Services, programs developed to ensure mutually beneficial experiences for the more than 300,000 foreign students in the United States without U.S. Government sponsorship ($2.8 million); for development of the study of the United States abroad and the costs of the Board of Foreign Scholarships ($.5 million); for escorts and interpreters for our International Visitor Program participants ($4.6 million); orientation programs ($1.1 million); medical insurance for program participants ($500,000); program evaluation and development ($482,000); and operating expenses of our overseas Binational Fulbright Commissions and Foundations (approximately $2 million worldwide).

QUESTION:

How much of the program cost is for program administration by Government agencies? By private organizations?

ANSWER:

Within our FY 1983 appropriation request for academic and International Visitor Exchange programs, $75,932 is included for the assistance of the Department of Labor in administering our International Visitor Program and $8,909,185 in administrative costs of private agencies that directly support the Agency's own exchange programs.

In addition to costs within the category of Academic and International Visitor Programs, the total budget for Educational and Cultural Affairs includes $394,606 transferred to the Department of Labor for staff costs. These costs are reflected in our request for Domestic Employee Compensation and Benefits, rather than for Academic and International Visitor Program costs. Finally, our arrangement with the Department of State for the provision of escorts and interpreters for our International Visitor grantees includes partial staff costs and related administrative costs of the Department's Language Services

Division. These reimbursed costs will total approximately $450,000 this fiscal year.

QUESTION:

How many private organizations are used to assist ICA in administering the exchange programs? What are the reasons for using these organizations rather than Government agencies? What services do the private organizations provide?

ANSWER:

Seven private organizations assist with the administration of USICA's own exchange programs. National itineraries for most grantees in the International Visitor Program are arranged by private program agencies under contract to USICA. These organizations have developed expertise in the particular fields of interest of the participants in the program, can provide efficient administrative support for the grantees while in the United States, and have developed a close working relationship with the network of private, local organizations that arrange programs for our Visitors in cities throughout the United States, utilizing the time and care of thousands of volunteers. For Academic Exchange Programs, national program agencies and private organizations in this country and Binational Fulbright Commissions and USICA posts abroad conduct competitions for grants under the program, screen candidates, and oversee grantees' progress while on the program. In effect, these organizations act as extensions of the USICA staff in administering the program. But they also ensure peer review of participants in the program and selection of participants on the basis of academic merit. They further are part of the academic community of this country and have demonstrated a success not possible for any federal agency in securing the admission of foreign participants to American academic institutions and the availability of tuition waivers, assistantships, and other forms of financial contributions that have helped to extend the reach of the program well beyond our own resources.

QUESTION:

How many of the private organizations are 100 percent Government funded?

ANSWER:

None of the organizations to whom we award contracts are wholly funded by the Government. One, the American Council on Education, is the parent organization of the Council for International Exchange of Scholars. The Council was created in the earlier days of the Fulbright Program for the purpose of administering the Senior Fulbright Scholars Program, and our contract with the American Council on Education provides total funding for the Council for International Exchange of Scholars. Similarly, Meridian House International, parent organization of the Visitor Program Service, is supported from several public and private sources. Visitor Program Service, however, is wholly supported from the Government.

QUESTION:

Is the private organization's performance formally evaluated before renewal of their grants?

ANSWER:

Most of these organizations administer programs representing a rather large share of our Educational and Cultural program resources, and their performance has borne close scrutiny from our program elements, contracting officials and audit staff. In addition, this year we have instituted a formal "program review" conducted by prestigious and knowledgeable individuals in the private sector who have volunteered their time to examine the performance of the organizations and the relationships between them and USICA.

QUESTION:

What alternatives can be developed or have been developed within the current budget to reduce the administrative cost to make more funds available to increase the number of grantees and the direct support to the grantees?

ANSWER:

Budget constraints this year have compelled us to redouble our efforts to support the largest possible number of exchanges from our existing resources. These efforts include:

-- We have increased the quality and quantity of programs for International Visitors who visit this country on their own resources, typically with no grant support from USICA and no contracted administrative structure to develop their programs. Itineraries and appointments for such "Voluntary Visitors" are arranged directly by our own staff, which we have almost doubled in size during the past year from within our own personnel resources. The constraint to expansion of this program is primarily the number of personnel we can assign.

-- We have negotiated the administrative costs of our two largest private sector partners downward by some 6% from last year's level despite rising costs. The administrative costs of others of the administering agencies have been reduced by similar or larger amounts.

-- We have reformulated our criteria for evaluating Academic exchange programs, restating the importance of their capacity for generating cost-sharing as one of the elements to be considered when determining levels of support.

— Our new program review process, noted in the answer to the previous question, is designed in part to seek an outside, impartial assessment of the structures that support various programs and the potential for utilizing alternative structures.

We believe that these efforts have already helped to extend the effectiveness of our financial resources this fiscal year. Many of these efforts require experience and a period of adjustment to implement fully, and we anticipate that they will continue to bear fruit next year and in future years.

GREECE RELAY STATIONS

QUESTION:

Explain what the U.S. can expect to pay for maintaining the VOA relay stations in Greece. Include any implicit costs such as provisions allowing Greece the full or part time use of U.S. transmitters and facilities.

ANSWER:

Under terms of the final draft agreement negotiated in May 1981 the cost the U.S. can expect to pay in land rental is approximately $250,000 one time payment for each of the years for which there has been no agreement, then $310,000 for each of the first five years of the agreement, $420,000 for each year of the second five year period and $565,000 for each year of the third five year period. The United States would also furnish a 250 kw transmitters (purchased in Fiscal Year 1980 for $977,481) and two antennas and associated equipment requested in the 1983 budget ($1,227,403). Under the original agreement, we have always provided the Government of Greece time on our transmitters. The estimated cost of time currently provided is $660,000 annually. The estimated cost of time to be provided under the terms of the draft agreement is $810,000 or an estimated increase of $150,000 annually.

QUESTION:

What assurances are there that the Greek government will not make further extraordinary demands before final agreement is signed?

ANSWER:

We have no assurances that there won't be additional demands when we return to the negotiating table but since the draft agreement was negotiated by both parties in good faith we hope that the final agreement will be basically the same as the draft.

DOMESTIC SATELLITE SYSTEM

VOA has requested nearly $1 million to establish a VOA-owned satellite network linking Washington with its four domestic relay stations, U.S. Correspondent Bureaus, New York Program Center, and planned relay stations in the Caribbean. A study evaluating the merits of such a system is to be undertaken in Fiscal Year 1982.

QUESTION:

Why are funds requested for this project without first completing the study?

ANSWER:

The purpose of the study primarily is to provide VOA with guidance in the evaluation of technical options and in contractual and legal matters. Funding of the project before completion of the study permits us to go into the construction phase in steps; for example, FCC filing, site surveys, preparation of specifications, reservation of the space segment, etc.

The estimation of the cost to implement this network is fairly straightforward, and will be relatively unaffected by the outcome of the study.

QUESTION:

Are there any international satellite communication agreements that may prohibit VOA from using a domestic U.S. owned satellite system to feed programming to the relay stations planned for the Caribbean nations?

ANSWER:

No. VOA or our prime contractor would file with the FCC for approval. FCC would work through the State Department to obtain country approvals and pass the proposal to Intelsat. Intelsat, which meets in October, 1982, and April, 1983, would examine it in the context of their Article 14 (d) (Technical or economic disadvantage or harm to Intelsat). So far, the FCC has approved 13 applications for satellite service to adjacent countries, including Canada, Bermuda and the Bahamas.

PRESIDENTIAL REPORT

QUESTION:

In March 1977 the President sent Congress a report on international broadcasting recommending the addition of 17 high powered transmitters to VOA's relay station network. Since then only four shortwave transmitters have been installed and made operational.

A. Explain chronologically what and why revisions have been made to the original plan?

B. With the delays and changes to the plan, how much has the cost increased?

ANSWER:

The seventeen transmitters in the President's report on International Broadcasting were to be located in Europe (5), Africa (4) and East Asia (8). Four of the eight transmitters identified for East Asia were included in the Fiscal Year 1976 budget to be installed in the Philippines. The four transmitters for Africa were first

planned for installation in Liberia and included in the Fiscal Year 1978 budget request. Four of the five transmitters identified for Europe were included in the Fiscal Year 1978 Budget for Woofferton. We have never acted on the fifth transmitter designated for Europe because it was not deemed necessary for technical reasons. Action on the remaining four transmitters for the Far East was delayed because of difficulties in selecting a site that would be both technically desirable and politically feasible.

As a result of several significant political changes and the increasing need to optimize the VOA signal, the deployment of our transmitters was subjected to an intense reevaluation. It became apparent that we should find ways to disperse our facilities in order not to become completely reliant upon any one location. In addition, Architectural and Engineering studies completed July 14, 1980, indicated that the costs of completing the projects at Liberia and the Philippines would be about double the amount estimated.

Sri Lanka and Botswana both became available so were added to the sites being considered. Sri Lanka was chosen as the Far East sight for the remaining transmitters of the eight originally sited in the Presidential report for the Far East. The Philippines project was modified to move two transmitters to Sri Lanka to add to the four scheduled to be installed at that location.

It also was decided that the four transmitters scheduled for Liberia should be installed in Botswana. The only work now to be done at Liberia is to complete a portion of the previously planned power plant expansion, complete needed repairs and install reconditioned generator sets. Funds were requested in the Fiscal Year 1982 budget to begin work at Sri Lanka and Botswana. In 1983 funds were requested to modify the Sri Lanka project to install four 500 kw transmitters in place of four of the six 250 kw planned for that installation.

The opportunity to locate in Sri Lanka affords us technical and political advantages that we felt we should not let pass. Similarly, the possibility of adding shortwave transmitters to our new Botswana facility expanded our options. From Sri Lanka and Botswana we can reach East and South Africa much more effectively than we can from Liberia. The unique location of Sri Lanka enables us to cover our remaining Asian broadcast needs and to reach Southeast and South Asia thus reducing our concentration in and dependence on the Philippines facility. Thus, politically and technically, the development of opportunities in Sri Lanka and Botswana not only provides new transmitter capability in their own right, but offers attractive substitutes for part of the purposes originally established for the original Liberia and Philippines projects. The addition of 500 kw transmitters at Sri Lanka further extends the advantages of that location in that it provides an alternative to the stations in Greece, assuring broadcasts to critical areas of Afghanistan, Pakistan, India and the Muslim areas of the USSR. These powerful new transmitters would extend coverage to twenty-five countries in critical areas.

The attached table outlines the chronological listing of estimated total project costs as reflected in our budget submissions.

CHRONOLOGICAL LISTING OF ESTIMATED TOTAL PROJECT COSTS

AS REFLECTED IN VOA BUDGET SUBMISSIONS

(Estimated Total Project Costs - $ in thousands)

	1976	1977	1978	1979	1980	1981	1982	1983
1. Philippines	$15,850	$15,850	$16,170	$15,770	$13,098	$13,098	$ 5,833	$ 5,833
2. Liberia	--	--	11,795	11,395	13,029	13,029	2,548	2,548
3. Woofferton	--	--	6,340	6,340	9,226	9,226	9,654	9,654
4. Botswana SW	--	--	--	--	--	--	29,615	29,615
5. Sri Lanka	--	--	--	--	--	--	66,364	95,705
TOTAL	15,580	15,580	34,305	34,084	35,353	35,353	114,014	143,355

POLISH BROADCASTS

QUESTION:

The 1983 budget estimate includes $166,800 for talent to continue the 1982 expansion of Polish language broadcast from 17.5 to 49 hours a week.

Is this talent being procured in the form of purchase order vendors? If so, how many vendors are involved and how does this number correspond to the 31.5 hour increase in weekly broadcast?

ANSWER:

Yes, the talent is in the form of free lance, contract, purchase order vendors. Since the expansion of its broadcasts, the Polish service has added six vendors and plans to add three more. In addition, it has increased the contributions of five existing vendors who had been utilized prior to the expansion, Thus, fourteen contract talent vendors are involved.

QUESTION:

What services and/or products are these talent vendors providing (e.g. scripts, translation or adaptation, broadcasting)?

ANSWER:

These talent vendors perform the full range of broadcast programming services in the Polish language. Specifically, they are performing translation, adaptation, radio production and anouncing duties.

QUESTION:

In view of the current situation in Poland and the outlook for the future, should VOA be seeking and planning for an increase in personnel authorizations rather than procuring temporary talent.

ANSWER:

The acquisition of the contract talent vendor talent is intended to be an interim measure as the most expedient and effective way to initiate the increased Polish programming as quickly as possible. On a long-term basis VOA proposes that a total of 11 additional positions are necessary to effectively cover the increased Polish programming schedule on a continuing basis. The additional staff will permit VOA to eliminate the recently acquired contract talent vendor talent as well as reduce the extremely heavy overtime schedules being performed by the Polish service staff and other technical support staffs connected with the increased Polish broadcasts.

TEXT EDITING

QUESTION:

The 1983 budget estimate contains $918,525 to fund the initial cost of a new text editing system for VOA.

A. What is the time frame for obtaining, testing and having the system operational? What additional costs will be incurred to make the system fully operational?

ANSWER:

August 3, 1983 - Deadline for the text editing system to become operational at VOA. The $918,525 represents the one-time start cost; once operational, the system will cost an estimated $984,000 per year for necessary leasing of equipment, supplies and maintenance.

QUESTION:

B. What is the anticipated useful life of the system? Do plans for its use include the necessary upgrading to keep it current with the state-of-the-art?

ANSWER:

The projected useful life of the system is seven years during which time VOA has as part of the operational plans a program for periodic replacement and upgrading of parts and equipment to keep the system current with the state-of-the-art.

QUESTION:

Has it been satisfactorily demonstrated that the capabilities of the system identified for procurement meet the needs of VOA? Has this system been used in other broadcasting organizations?

ANSWER:

VOA expects that as the system becomes operational and we gain some experience in the use of the system further modification and refinements of the system will take place to insure it fully meets the needs of VOA. Similar but smaller systems have been in use by Radio Free Europe and by the National Broadcasting System. However, VOA's system is somewhat larger and is intended to be specifically tailored to VOA's needs for an increased archive retrieval system for major news stories and information.

MANAGEMENT

QUESTION:

Under the current administration, significant changes have occurred in the organizational structure of VOA and in the personnel occupying top management positions.

What is the objective of these changes and how do they correspond to the short and long-range plans for VOA programming and/or use of technical facilities?

Have or will these changes impact the direction of VOA programming? Specifically, have there been any moves toward:

Increased criticism of Soviet or other foreign government sponsored news media, or

Increased emphasis on supporting U.S. government policies while decreasing critical analysis of those policies.

ANSWER:

1. The objective of these changes is to assemble a professional broadcast management team which can respond to the program and technical challenges inherent in the highly competitive international broadcasting field. Our initial efforts have been directed toward the program side where we have recruited highly qualified broadcast professionals, but we are also actively engaged in upgrading VOA's senior engineering staff.

2. These management changes should have a very positive impact on VOA programming. Enhancing our technical broadcasting facilities while we produce better, more interesting programming will enable VOA to reassert itself as a leading international broadcaster.

   VOA programming will continue to adhere to the precepts of its Congressional Charter. In particular, the Voice's news broadcasts will continue to be "consistently reliable and authoritative" while we supplement its ability to, as the Charter requires, "represent America" through a "balanced and comprehensive projection of significant American thought and institutions." And we will continue to take seriously our responsibility "to present the policies of the

United States clearly and effectively" including "responsible discussion and opinion on these policies."

VOA PERSONNEL SYSTEM

QUESTION:

As part of the 1982 budget VOA was authorized to establish an independent personnel office to correct many long standing internal problems which had been identified by several administrations. This personnel office has been established and most of the key positions have or will be shortly filled.

Identify all projects, including the objective and time frame for completion of each, that have been initiated to correct the problems which were used to justify establishment of the independent office.

How do each of these projects relate to the short and long range plans for the efficient and effective utilization of VOA personnel in both programming and the operation of technical facilities?

ANSWER:

Introduction

An independent Office of Personnel for the Voice of America was established effective October 1981. The office became fully staffed and operational effective January 1, 1982. The overriding consideration attendant to the establishment of an independent Office of Personnel for the Voice of America was the inadequate personnel support given to the highly specialized and culturally diverse workforce employed at VOA. Specific projects, objectives, time frames and problems those projects are designed to overcome are as follows:

As part of the 1982 budget VOA was authorized to establish an independent personnel office to correct many long standing internal problems which had been identified by several administrations. This personnel office has been established and most of the key positions have or will be shortly filled.

RECRUITMENT AND PLACEMENT DIVISION

PROBLEM: At the time VOA/P became operational, several long-standing problems existed that related to the examining and testing of applicants. Some of the major problems included:

a. Severe delays in staffing positions in one of VOA's largest organizational elements, the Engineering Branch, largely due to inconsistencies on the part of the Office of Personnel Management's regional area offices.

b. Delays in testing applicants nationally and internationally for newswriter and broadcaster positions.

c. Outdated qualification standards for newswriter and broadcaster positions which resulted in a substantial number of minimally qualified candidates being referred for vacancies.

d. Discrepancies in the test evaluation process.

e. Lack of appropriate validation procedures for tests.

PROJECT: Expand and upgrade examining and testing of applicants for VOA positions.

TIME FRAME:

a. May 31, 1982

b. Ongoing

c. May 31, 1982

d. April 30, 1982

e. July 31, 1982

OBJECTIVE:

a. Expand the delegated examining authority from OPM to include the engineering occupations.

b. Expedite the testing and evaluation of all applicants for VOA's broadcaster and newswriter positions.

c. Develop qualification standards for newswriter and broadcaster positions.

d. Conduct training sessions for all test evaluators to standardize and professionalize the test evaluation process.

e. Develop test validation procedures.

As a result of working closely with OPM area offices, the vacancy rate in the Engineering Branch has already dropped by a significant number of positions. At the same time, requests for delegation of examining authority are being prepared and soon will be forwarded to OPM for approval.

With the establishment of testing facilities within VOA, the number of applicants that are examined each week has greatly increased. In addition, the scheduling of nationwide and overseas examinations has also increased due to the existence of an examination and testing unit within VOA/P.

A qualification standard for the newswriter positions has been developed which is specific to our recruiting needs and approved by VOA management.

A new qualification for the broadcaster positions is being drafted in conjunction with VOA management.

Training sessions have been initiated for the test evaluators for the purpose of upgrading and ensuring an unbiased evaluation of all examinations.

Contact has been made with the Educational Testing Service at Princeton University requesting guidance on appropriate validation procedures for VOA examinations.

QUESTION 2: Refinement of examining and testing procedures will improve the quality and efficiency of evaluation procedures used to identify top-quality talent for VOA occupations.

PROBLEM: Prior to the establishment of VOA/P, a centralized recruitment program for VOA did not exist and a vacancy rate of approximately 230 positions existed, some of which had been vacant for one year or more.

PROJECT: Work closely with VOA managers to identify recruiting sources, conduct recruiting trips, and develop applicant supply files.

TIME FRAME: Ongoing

OBJECTIVES:

a. Substantially reduce the existing vacancy rate.

b. Establish an effective ongoing college and university recruitment program for appropriate VOA occupations.

c. Increase recruiting efforts in ethnic neighborhoods.

d. Identify other recruitment sources both nationally and internationally.

e. Develop an applicant supply file to provide a ready source of candidates for quick response to vacancies.

By March 1, 1982 the vacancy rate had dropped to 183 positions with an additional 90 candidates selected who are in the pipeline for eventual appointment. Formal contact has been made with 50 colleges and universities to identify VOA's recruitment interest in engineering, broadcasting, and journalism students for future vacancies. We have identified through discussion with VOA management appropriate ethnic recruiting sources and are currently actively recruiting for foreign language broadcaster positions. Several ads have been placed to major newspapers and ethnic journals in an effort to identify qualified candidates.

QUESTION 2: Concentrated attention to staffing VOA positions quickly and with well-qualified candidates will contribute to an overall increase in immediate organizational capabilities. The development of planned, long-range recruiting programs will provide a ready pipeline of candidates to avoid delays in staffing positions critical to VOA's ongoing programs and operations.

Position and Pay Management

Problem: VOA has needed a comprehensive inventory and analysis of position ceiling allocations and organization structure, and a systematic process to determine personnel resources needed for various program operations and initiatives.

Subject: Position Management Reviews

Time Frame: By 6/1/82

Objective: VOA will achieve optimum utilization and allocation of positions, eliminate duplication of functions, adjust organization structure to fit the current needs of VOA.

Position management reviews began in January, 1982, and will be completed by April 30, 1982, with recommended adjustments to existing structure. By 6/1/82, a new resource allocation process will be implemented for new program needs, and a cyclic survey process established to evaluate ongoing operations periodically.

With those products as a base, VOA will be able to move more quickly and effectively in organizing and staffing its expanding technical and program operations.

Response to Question 2:

These reviews are part of a Position Management Program which will insure that both individual positions and organizations in VOA are structured for efficient and effective utilization of resources. In the short term, VOA has analyzed and corrected some long-standing inequities in the structure of individual positions in both the broadcaster and the technician occupations.

Over the long range, VOA will continue to structure positions and organizations which enhance organizational effectiveness, economy and employee productivity.

Problem: Delays in position classification action contributed significantly to the backlog of vacancies existing last year. Longstanding inequities in the grade structure of foreign language vs. English language broadcasters have affected employee productivity and morale. Inefficient position structure and consequent position classification contributed to difficulties in recruiting qualified relay station technicians.

Project: Position Classification Program

Time Frame: 9/30/82

Objective: VOA will continue to achieve improved timeliness of position classification actions; develop appropriate criteria for classification of VOA positions; and achieve alignment of broadcasting positions throughout VOA.

VOA/P has been able to speed response, processing most routine actions in 3-5 days. Concurrently, work has been done to correct grade alignment problems and develop interim criteria for classification pending the full scale standards development work eventually needed. As a result, discrepancies in the grade structure of foreign language vs. English language broadcasters are being corrected, and difficulties in recruiting qualified relay station technicians have been alleviated.

A number of position classification problems remain, for example, criteria for radio production specialist positions. By 9/30/82, VOA/P expects to have completed long-range plans for dealing with these problems and be well on the way to implementing solutions.

Response to Question 2:

The short-term advantages, to VOA operations and personnel, of filling vacancies quickly is obvious. In the long run, resolving position classification problems will result in appropriate compensation of employees for work assigned and performed, increased opportunities for employee creativity, which in VOA is productivity, and in improved employee morale.

VOA/PL

Question 1

Problem: VOA has been plagued in recent years with an unusually large number of employee grievances and complaints involving a broad spectrum of employee-management issues. No on-site office existed for the resolution of these problems and many dragged on for many months and even years. Efforts by the USICA headquarters Personnel Office to investigate and resolve these problems were often unsuccessful as neither VOA employees nor managers viewed the headquarters office as credible or knowledgeable about VOA's unique operations.

Project: Establish an on-site staff for the resolution of employee complaints, grievances and general employee-management problems.

Time frame: Project completed with ongoing responsibility for resolution of problems.

Objective: Mediate and resolve employee-relations problems at the VOA in a manner perceived by employees and managers to be fair, impartial and effective. Effective January 1, 1982 the VOA Labor and Employee Relations Division (VOA/PL) became operational. This staff is responsible for impartially investigating and resolving employee complaints, grievances and general employee-management problems. In concert with the Position and Pay Management Division, VOA/PL also conducts management reviews of VOA elements which are particularly problem-ridden and recommends management initiatives to resolve existing problems and to prevent future ones. VOA/PL has already been successful in resolving several of the most complex, longest-standing employee relations problems at VOA and is currently addressing a number of others.

Question 2: Employee relations problems consume incredible amounts of time and energy on the parts of both employees and managers and can have a disruptive influence on an entire office. By addressing these problems in a professional and straightforward manner, and resolving them quickly and effectively, employee morale and efficiency are improved and managers and employees are freed to concentrate their efforts on program responsibilities.

Question 1

Problem: Labor Relations at VOA have been handled in a rather haphazard manner over the years with no trained on-site staff to deal with employee unions. Most bargaining was conducted at the Agency level with little input from VOA management, and union-management grievances and other disputes involving VOA were handled by the USICA Office of Personnel which had little direct knowledge of the specialized nature of the broadcasting business.

Effective January 1, 1982, the VOA Labor and Employee Relations Division (VOA/PL) became operational. This staff consists of three labor relations professionals and is responsible for representing VOA management in all negotiations, disputes and routine dealings with VOA employee unions.

Project: Establish an on-site staff to conduct labor relations program on behalf of VOA management to deal with labor unions representing VOA employees.

Time frame: Project completed, with ongoing responsibility for conducting effective labor relations program at VOA.

Objective: Foster professional, effective and amicable relationships between VOA management and employee unions in terms of collective bargaining, contract administration and union-management disputes resolution.

Effective January 1, 1982, the VOA Labor and Employee Relations Division (VOA/PL) became operational. This staff consists of three labor relations professionals and is responsible for representing VOA management in all negotiations, disputes and

routine dealings with VOA employee unions. A structured, effective and amicable relationship has already been established with employee unions, and a number of agreements have been negotiated through the collective bargaining process which provide advantages to both VOA management and employees.

Question 2: A healthy, professional and effective relationship between management and employee unions promotes the efficiency of the VOA operation as a whole. Employees share their views with management through their unions, and a responsive management gives full consideration to those views in making personnel and operational decisions. Employee morale and efficiency are improved and decisions impacting on employees are carefully studied and negative effects minimized.

FOREIGN SERVICE PERSONNEL

I. Problem: Correspondents need to be able to spend definite periods in assignments abroad and in the United States and to have career-broadening and training assignments. VOA management needs to be able to plan regular rotation of assignments and to have correspondents who are available worldwide.

Project: Tour of Duty Policy for Correspondents

Objective: Establish a regular tour of duty for VOA's foreign correspondents and ensure their worldwide availability.

Time Frame: VOA/P fully developed the proposal in March 1982. Subject to minor modifications and final approval, the policy will be implemented by May 31, 1982.

Question 2: The new policy should help ensure that each correspondent receives a good mix of both foreign and domestic assignments and eventually to allow greater interchangeability of Voice and other Foreign Service personnel in VOA and USICA assignments. Training, including foreign language training, and broadening assignments will be an integral factor in the selection of correspondents.

II. Problem: VOA's foreign national employees have been brought in on J-1 visas as specialists and can stay in the U.S. for up to three years with a possible extension of up to one year more by the Immigration and Naturalization Service (INS). The scarcity of American citizen foreign language broadcasters in certain difficult world languages often makes it necessary for VOA to retain for longer periods of time those broadcasters who have demonstrated excellence on the air.

Project: New Visa Category for Foreign Language Broadcasters

Objective: Establish a new subcategory of the exchange visitor (J-1) visa which will allow VOA's foreign national employees to remain legally in the U.S. for longer periods.

Time Frame: VOA/P submitted proposed changes in the regulations to the General Counsel's office in February 1982. We expect the changes to be implemented by May 31, 1982.

Question 2: Since legislation specifically provides that USICA may bring in foreign language broadcasters and INS is willing to cooperate fully, we can remove a long-standing source of employee frustration with the INS over how long broadcasters are permitted to remain in the U.S.

III. Problem: One of the chief causes of low morale among VOA's foreign language broadcasters has been the frustration they have felt because of the long delays in most transactions with INS.

Project: Expedite Visa Processing/Liaison with INS

Objective: Establish a fast-action channel with INS to expedite resolution of visa problems of VOA's foreign national employees.

Time Frame: VOA/P opened an active, two-way communication channel with INS in March 1982. This project will be an ongoing responsibility of VOA/PF.

Question 2: While some delays will remain unavoidable because of legally mandated requirements, VOA/PF hopes to expedite processing of most nonimmigrant visa, permanent resident, and naturalization problems for our more than 200 foreign national employees.

POLICY AND SERVICES DIVISION

Response to Question #1:

Problem: Prior to the establishment of a separate, independent VOA personnel office, requests from VOA managers for personnel action, including appointments, promotions, pay adjustments and retirements, were processed across town by the International Communication Agency. VOA managers did not receive personal or timely response to their personnel requests, most of which involve complicated factors peculiar to the nature of the Voice's mission, i.e., non-citizen employees whose appointments are often effected by visa situations, retirement calculations are more complex for VOA employees with prior service in international broadcasting, conversions from domestic service to foreign service, etc.

Project: Increase the timeliness and responsiveness of VOA personnel action processing.

Objective: Establish on-site capability for processing VOA personnel actions, including appointments, promotions, pay adjustments and retirements.

Time Frame: Ongoing since January, 1982; after just a few months of operation, the VOA Office of Personnel has succeeded in reducing the number of steps involved in processing personnel actions and now provides on-site, timely and accurate processing of all such actions.

Response to Question #2:

Delays in meeting VOA management's requests for personnel actions, such as staffing vacancies, clearly have adverse impacts on organization efficiency and VOA's accomplishment of its mission. Timely staff response by the Office of Personnel to VOA needs in managing its human resources has relieved line management of immediate problems attendant to staffing shortages and inefficient work structuring and has provided top VOA management more time for planning in the areas of position and personnel management.

Response to Question #1:

Problem: The International Communication Agency's Incentive Awards Program is too broad in nature and coverage to recognize effectively the specialized efforts of VOA employees. A program tailored to the radio broadcasting field with special awards is needed to provide incentive and grant warranted recognition to employees of the Voice of America.

Project: Establish at VOA an Incentive Awards Program

Objective: Develop and administer a VOA Incentive Awards Program which effectively recognizes and rewards deserving employees for their contributions to the international radio broadcasting industry. A VOA Incentive Awards Committee was established under the auspices of the VOA Office of Personnel in February, 1982, and already has succeeded in invigorating what was essentially a dormant program at the Voice of America. The Voice's Committee, on which

a cross section of VOA is represented, is playing an active role in the design of the VOA Incentive Awards Program.

Time Frame: June 1, 1982

Response to Question #2:

A mechanism for recognizing extraordinary employee contributions to their employing organization, properly administered, has long been recognized in business, whether private or public, as supportive of high work force morale and productivity. In the past, VOA employees have not received the recognition they rightfully deserve, resulting in self-identification as the forgotten "step-children" of the Agency.

An active Incentive Awards Program, administered at VOA, will instill in the workforce the degree of professionalism and self-pride conducive and so necessary to efficient operation.

TRAINING & DEVELOPMENT DIVISION

Background

Last year (March, April and May, 1981) in testimony before Congressional committees, certain problems were identified involving the Voice of America.

Among them: VOA's lack of control over its personnel (now rectified)...the difficulty in recruiting specialists with the broadcasting skills VOA needs (also being rectified)...and two other areas that bear directly on Training and Development — the fact, as Congressman Fascell put it, that "VOA is operating with 1954 equipment"...and the question of staff morale.

* * *

Problem — It may have been simply circumstance...or lack of leadership...or that no one cared that much. But, whatever the cause, the professional staff of VOA believed that for the last decade — if not back to the 1960's — that its parent agency, now USICA, showed little concern or commitment to their training and development.

Project — Improving the skills and morale of VOA's Staff.

Objective — To help VOA's staff of approximately 2,400 professionals perfect their skills to the highest level of excellence consistent with VOA's role as the leader in the community of international broadcasters, and thus give those professionals a new sense of their own worth, thereby improving morale.

The means: Design, implement and create the budget for a comprehensive Training and Development Program to meet the needs and aspirations of VOA's diverse and distinctive staff, which is drawn from nearly every segment of the world's rich and varied cultures, societies and modes of thought.

Those programs, now starting up, run from refresher courses in English as a Second Language (vital to VOA's 40 Language Services)...to Production Workshops, so that the "sound" of VOA will reflect the energy and ingenuity of America...and on to such priority programs

as Basic Management (for VOA's more than 100 supervisors)...Exchange Programs with America's best colleges and universities, which would allow VOA staff members to spend time there as Visiting Lecturers and have faculty members come to VOA to hold seminars...and, finally, Area Enrichment, wherein broadcasters from the Language Services would carry out Field Studies in their Target Areas to learn the latest nuances in the particular language, and the current political, social and cultural trends.

Justification: VOA's own mandate is to capture the interest and imagination of listeners throughout the world in the conviction that an informed world is a peaceful one.

But for VOA to grow — in impact and effectiveness — its staff must grow, too, in perceptions, abilities and the capacity necessary to produce programs that transmit the vitality and the story of America.

Time Frame — Establish Training and Development Division and recruit staff by January 1982 (done), and have first programs starting by March 1982 (done).

* * *

Problem — Outmoded equipment, out-of-date skills, and a history (as in the Skills and Morale section above) of little attention to the electronics revolution going on outside VOA. A stroll through VOA, then one through National Public Radio or the new ABC Network Bureau in Washington is confirmation enough of how much has to be done.

Project — Improving Technological Skills

Objective — To help VOA Studio and Broadcast Engineers move from what amounts to the technology of the 1950's (the age of vacuum tubes) onto the "cutting edge" of the communications revolution that is changing the nature of the United States and the rest of the world with integrated circuits, micro-miniaturization, communications satellites and computers.

The means: Contract with a suitable technological-training organization to come into VOA...survey the training needs of its Studio Engineers as a first step...then design and conduct courses on site at VOA to introduce those Engineers to the latest equipment, systems and technologies.

Justification: Unless VOA's programs can be delivered to the world's listeners with clarity and directness (so the listener does not have to strain through static and interference to try to hear them), the question of how good those programs might be or how topical does not matter. In other words, if VOA is hard to tune in — if it ignores the latest technical innovations — only the most dedicated listener will bother, which is not the path to growth and influence.

Time Frame March 1982 (done)

QUESTION 2: The projects referred to above represent a beginning of an effort to update and maintain professional skills and state of the art knowledge necessary to keep a highly professional workforce in tune with the sensitivities and complexities attendant to an international broadcasting entity such as the Voice of America.

PROGRAM LENGTH

QUESTION:

Approximately 12 of the 39 VOA broadcast languages include a 15 minute air show which is transmitted during the morning hours in the target areas. Independent studies of efficient transmitter utilization have indicated that a 15 minute program is undesirable and that a broadcast of at least 30 minutes is required to overcome demands associated with shortwave listening.

What are the pros and cons in broadcasting 15 minute programs? Why has VOA decided that use of 15 minute programs is appropriate?

ANSWER:

As the studies you cite indicate, the disadvantages of broadcasting 15 minute programs far outweigh the advantages. VOA would prefer to expand these brief airshows to at least a half an hour, wherever possible. In virtually every case, however, VOA has been unable to expand because of personnel shortages or a lack of available transmitter time or frequencies. Faced with a choice between having no program in a given vernacular in the morning, and having a 15 minute news program to serve East European listeners hungry for information, we reasoned it was better to go on the air with a brief news program rather than to provide no information at all. VOA is looking into expansion of several of its morning 15-minute broadcasts in East European languages to at least a half an hour, which would alleviate this problem.

DEPARTMENT OF THE TREASURY

OFFICE OF CHRYSLER FINANCE

CHRYSLER LOAN GUARANTEE PROGRAM

STATEMENT OF LACHLAN W. SEWARD, ACTING DIRECTOR

ACCOMPANIED BY:

ROGER W. MEHLE, JR., ASSISTANT SECRETARY FOR DOMESTIC FINANCE

MARK E. STALNECKER, DEPUTY ASSISTANT SECRETARY FOR FEDERAL FINANCE

CHARLES McFADDEN, DEPUTY ASSISTANT DIRECTOR FOR THE FINANCIAL MANAGEMENT DIVISION

PREPARED STATEMENT

Senator WEICKER. Our next request is that of the Chrysler Corporation loan guarantee program. The amount is $1,211,000, a decrease of $145,000 from the 1983 base, and provides for 13 positions.

Mr. Seward, if you will introduce your associates, and your statement will be incorporated into the record.

[The statement follows:]

CHRYSLER CORPORATION LOAN GUARANTEE PROGRAM

	Positions	Amount (Thousands)
Appropriation requested for fiscal 1982	14	$1,356
Base adjustments:		
Pending supplementals:		
Pay costs		(1)
Program		
Subtotal, supplementals		(1)
Other adjustments		
Base for fiscal year 1983	14	1,356
Fiscal year 1983 decreases	-1	-145
Appropriation requested for fiscal 1983	13	1,211

[1] Pay supplemental will be requested at a later date.

STATEMENT OF LACHLAN W. SEWARD

My testimony will discuss the administration's request for an appropriation to cover the fiscal year 1983 administrative expenses of implementing the Chrysler Corporation Loan Guarantee Act of 1979.

On January 27, 1982, the Loan Guarantee Board submitted its fourth report to Congress for the period April 1 through September 30, 1981, as required by section 14 of the Guarantee Act. A copy of that report is attached.

ADMINISTRATIVE EXPENSES

Mr. Chairman, the administration requests an appropriation for fiscal year 1983 of $1.211 million, including 13 funded positions to enable the Board to administer the loan guarantee program established by the Guarantee Act. As you know, our approach to this program is to seek appropriations for administrative expenses only on an annual basis because of its temporary nature.

The funds and positions provided by this appropriation are used to maintain the Office of Chrysler Finance and related support activities in the Treasury Department. The Loan Guarantee Board requires staff assistance and other services to satisfy its responsibilities under the act. Those responsibilities include negotiations relating to the guaranteed and unguaranteed portions of Chrysler's 4-year financing plan; the continuing analysis of Chrysler's 4-year operating plan, financing plan, and other plans necessary for the Board to make the determinations required by the act in order to protect the Government's interest in the guarantees; and, presentation of annual reports to Congress concerning its activities.

These responsibilities will continue throughout the entire period that guarantee commitments and guaranteed loans are outstanding. The level of activity, however, should significantly decrease after December 31, 1983, when the Board's authority to issue guarantees expires. It is the Treasury's intention to use only the minimum resources needed to meet the requirements of the act given Chrysler's actual financial condition at any given time.

The expertise necessary to support the Loan Guarantee Board may continue to require contractual services from the private sector. Should this be the case, we would expect to use the public accounting and management consulting firm of Ernst & Whinney to help us analyze and evaluate Chrysler's current status and its operating plans. We also would employ, as needed, the law firm of Cahill, Gordon & Reindel to help us prepare the legal documents and review legal issues incident to the financing transaction, including security arrangements. These firms have assisted the Treasury since the beginning of the Chrysler program.

Actual expenses for these administrative purposes for fiscal year 1981 were approximately $1.029 million with 10 funded positions. For the current fiscal year (1982), the Office of Chrysler Finance has an anticipated appropriation of $1,356,000 and 14 funded positions. Since a further issuance of guaranteed loans is unlikely, we expect the actual 1982 expenditure to be substantially less than the $1.356 million.

For fiscal year 1983, we are requesting a somewhat lower appropriation of $1,211,000 and 13 funded positions to indicate our expectation that this program will wind down. At the time this request was prepared for OMB review last August, Chrysler's financial condition was still quite weak and the projections for the remainder of calendar year 1981 were unencouraging. We could do little more than indicate a desire to hold the administrative costs down. Since then, Chrysler's cash position has improved dramatically. It now looks as if the cash balances will be at favorable levels well into 1983 at least. If this proves to be the case, it would be our plan to hold administrative cost to levels below the amount requested in the budget.

One key area of our budget, the reliance on outside experts, has been diminishing and will continue to do so. In fiscal year 1981, approximately $575,000 of the $1.349 million budgeted was actually spent for the use of consultants. In fiscal year 1982, approximately $817,000 of the $1.356 million has been budgeted for consultants' fees. Yet, we would expect to obligate no more than $450,000 for consultants in fiscal 1982 based upon Chrysler's current condition. Barring unforeseen demands, we may be able to spend even less than the $450,000 currently obligated. Consistent with our overall request for fiscal year 1983, the allocation for consultants is only slightly reduced to $698,000. By using internal staff to do more of the analysis, however, we expect to be able to hold actual expenditures to less than that amount if Chrysler's condition does not deteriorate.

Of the 17 authorized internal positions, 13 are currently on board. We anticipate maintaining on board staffing at this level through fiscal year 1983 if conditions do not require intensive oversight of the Chrysler guarantee. It is our intention to apply the same standards to staffing levels as to all other resources for the office. At present, positions in the Office of Chrysler Finance are divided equally among the individuals

responsible for analysis of Chrysler's operating plan and among those responsible for analysis of its financing plan.

I would be pleased to answer any questions.

INTRODUCTION OF ASSOCIATES

Mr. SEWARD. I am Lachlan W. Seward, Acting Director of the Office of Chrysler Finance, accompanied by Roger W. Mehle, Jr., the Assistant Secretary for Domestic Finance; Mark E. Stalnecker, the Deputy Assistant Secretary for Federal Finance, and Charles McFadden, the Deputy Assistant Director for the Financial Management Division.

Mr. Chairman, my testimony will discuss the administration's request of an appropriation to cover fiscal year 1983 administrative expenses of implementing the Chrysler Corporation Loan Guarantee Act of 1979.

Mr. Chairman the administration requests an appropriation for fiscal year 1983 of $1.211 million, including 13 funded positions to enable the Board to administer the loan guarantee program established by the Guarantee Act. As you know, our approach to this program is to seek appropriations for administrative expenses only on an annual basis because of its temporary nature.

The funds and positions provided by this appropriation are used to maintain the Office of Chrysler Finance and related support activities in the Treasury Department. The Loan Guarantee Board requires staff assistance and other services to satisfy its responsibilities under the act. Those responsibilities include negotiations relating to the guaranteed and unguaranteed portions of Chrysler's 4-year financing plan; the continuing analysis of Chrysler's 4-year operating plan, financing plan, and other plans necessary for the Board to make the determinations required by the act in order to protect the Government's interest in the guarantees; and, presentation of annual reports to Congress concerning its activities.

These responsibilities will continue throughout the entire period that guarantee commitments and guaranteed loans are outstanding. The level of activity, however, should significantly decrease after December 31, 1983, when the Board's authority to issue guarantees expires. It is the Treasury's intention to use only the minimum resources needed to meet the requirements of the act given Chrysler's actual financial condition at any given time.

The expertise necessary to support the Loan Guarantee Board may continue to require contractual services from the private sector. Should this be the case, we would expect to use the public accounting and management consulting firm of Ernst & Whinney to help us analyze and evaluate Chrysler's current status and its operating plans. We also would employ, as needed, the law firm of Cahill, Gordon & Reindel to help us prepare the legal documents and review legal issues incident to the financing transaction, including security arrangements. These firms have assisted the Treasury since the beginning of the Chrysler program.

Actual expenses for these administrative purposes for fiscal year 1981 were approximately $1.029 million with 10 funded positions. For the current fiscal year 1982, the Office of Chrysler Finance has an anticipated appropriation of $1,356,000 and 14 funded positions. Since a fur-

ther issuance of guaranteed loans is unlikely, we expect the actual 1982 expenditure to be substantially less than the $1.356 million.

For fiscal year 1983, we are requesting a somewhat lower appropriation of $1,211,000 and 13 funded positions to indicate our expectation that this program will wind down. At the time this request was prepared for OMB review last August, Chrysler's financial condition was still quite weak and the projections for the remainder of calendar year 1981 were unencouraging. We could do little more than indicate a desire to hold the administrative costs down. Since then, Chrysler's cash position has improved dramatically. It now looks as if the cash balances will be at favorable levels well into 1983 at least. If this proves to be the case, it would be our plan to hold administrative cost to levels below the amount requested in the budget.

One key area of our budget, the reliance on outside experts, has been diminishing and will continue to do so. In fiscal year 1981, approximately $575,000 of the $1.349 million budgeted was actually spent for the use of consultants. In fiscal year 1982, approximately $817,000 of the $1.356 million has been budgeted for consultants' fees. Yet, we would expect to obligate no more than $450,000 for consultants in fiscal 1982 based upon Chrysler's current condition. Barring unforeseen demands, we may be able to spend even less than the $450,000 currently obligated. Consistent with our overall request for fiscal year 1983, the allocation for consultants is only slightly reduced to $698,000. By using internal staff to do more of the analysis, however, we expect to be able to hold actual expenditures to less than that amount if Chrysler's condition does not deteriorate.

Of the 17 authorized internal positions, 13 are currently on board. We anticipate maintaining on board staffing at this level through fiscal year 1983 if conditions do not require intensive oversight of the Chrysler guarantee. It is our intention to apply the same standards to staffing levels as to all other resources for the office. At present, positions in the Office of Chrysler Finance are divided equally among the individuals responsible for analysis of Chrysler's operating plan and among those responsible for analysis of its financing plan.

I would be pleased to answer any questions.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. The few questions we have will be submitted for the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LOWELL P. WEICKER, JR.

Employment

Question: How many staff does the program currently have on board?

Answer: 13

Question: With the budgeted cut-back to 13 in Fiscal Year 1983, will any functions of the program be curtailed?

Do you anticipate any increase in workload for Fiscal Year 1983?

Answer: The Fiscal Year 1982 request was premised on our view that Chrysler was in a weakened financial position and that our office might require a full complement of staff and contractor resources to cope with a possible loan drawdown. Subsequently, Chrysler's cash position improved and we do not anticipate a drawdown or the consequent increased demand on our resources in Fiscal Year 1983. Therefore, the workload should be approximately the same in Fiscal Year 1983 as it will be for the remainder of Fiscal Year 1982.

Further Draw Down

Question: Chrysler has already drawn $1.2 billion from a guarantee of $1.5 billion. What are the prospects for further draw downs in the future?

Answer: Chrysler has indicated that it has no plans to request the remaining $300 million in loan guarantees in the foreseeable future.

Sale of Defense Component

Question: Last month Chrysler sold off its defense component to General Dynamics. Though this substantially improves their cash position in the near term, how does that sale jeopardize the company's ability to become more competitive in the future? [Note: the sale of Chrysler Defense (XM-1 Tanks) for $348.5 million to General Dynamics will give Chrysler a $200 million cash cushion. However, the sale will also mean between $50 million and $75 million less annual profit.]

Answer: The Chrysler Corporation Loan Guarantee Board has performed a thorough analysis of the impact of the sale of Chrysler Defense, Inc. (CDI) on Chrysler and has approved the sale pursuant to Subsection 11(b) of the Act and Section 7.09 of the Agreement to Guarantee. Among other things, the Board found that the sale of CDI did not adversely affect the remaining Chrysler entity from any of the following two considerations: profit and loss and cash. To a lesser extent the Board found that Chrysler would benefit by not having to divert its efforts in developing new weapons systems in the next several years.

From a profit and loss standpoint, the sale produces an immediate boost in earnings based on the gain on sale over book value. This is followed by a gradual erosion in earnings as the profit effect of CDI is lost in the ensuing years covered by the Chrysler plans. However, the loss of profits is offset, to a large extent, by reinvestment of the net proceeds from the sale and elimination of the corporate parent's funding for CDI employee profit sharing.

The residual loss of profits should not materially impact Chrysler's status as a going concern.

In a manner analogous to the profit impact, the initial inflow of $300 million in cash from the sale in 1982 will gradually diminish over the outyears of Chrysler's plans as CDI's operating cash flow is foregone.

These additional cash resources acquired through the sale may be used as a reserve for contingencies, may serve to attract additional investment and increase the funds potentially available to repay the guaranteed loans.

Finally, if Chrysler had remained in the defense business, it would be potentially faced with spending large sums of money on R&D and prototype development for new weapons platforms when the present M-1 contracts expire. The costs and risks associated with these efforts would divert resources and management attention away from the automobile business which is the primary emphasis of the company's operations.

Long Term Viability of the Company

Question: The Chrysler Loan Board has recently approved an operating and financial five-year plan. Would you comment on the reasonable prospects for long-term viability for the company?

Answer: The Board found that while the outlook for Chrysler was less favorable than that in last year's review of the plan, there is still reason to believe that Chrysler remains viable. Despite a sizable loss in 1981, evidence from the company's 1981 financial performance suggests that Chrysler has made progress in reducing its break-even point and in positioning itself defensively for what was one of the worst automobile markets in recent years. Although the Board projects that Chrysler will be in an approximate break-even position in 1982, Chrysler's return to sustained profitability now depends to a great degree on a recovery of the market from the current depressed levels. Chrysler has projected a recovery beginning later in 1982 and gathering momentum during 1983-1985. In the meantime, Chrysler has raised a significant amount of cash which will provide a cushion for financial contingencies and possibly attract additional capital investment.

While the cash-raising options available to the company are more limited now than last year, Chrysler retains the ability to raise cash in excess of that contemplated in its current financing plans should this be necessary to meet future cash flow problems.

Chrysler Corporation Loan Guarantee Program, Administrative Expenses

DEPARTMENT OF THE TREASURY
ANALYSIS OF AUTHORIZED LEVEL FOR FISCAL YEAR 1982
(Dollars in thousands)

	Permanent Positions	Average Positions	Amount
FY 1982 Appropriation (Continuing Resolution) Enacted by Congress	17	14	$1,356 1/
Estimate, FY 1983	16	13	$1,211

DIGEST OF BUDGET ESTIMATES BY ACTIVITIES FISCAL YEAR 1983

	Appropriation FY 1981		Authorized Level FY 1982		Budget Estimate FY 1983		Increase (+) or Decrease (-) for 1983					
							Total Changes		Program Changes		Other Changes	
	Ave. Pos.	Amount	Ave. Pos.	Amount	Ave. Pos.	Amount	Ave. Pos.	Amount	Ave. Pos.	Amount	Ave. Pos.	Amount
Administrative expenses	10	$1,029	14	$1,356	13	$1,211	-1	$ -145	—	$ —	-1	$ -145
Unobligated balance	—	320	—	—	—	—	—	—	—	—	—	—
Total appropriation, authorized level and budget estimate	10	$1,349	14	$1,356 1/	13	$1,211	-1	$-145	—	$ —	-1	$ -145
Permanent positions established	(17)		(17)		(16)		(-1)		(—)		(-1)	

1/ Pay raise not included; pay supplemental to be requested at a later date.

SUMMARY EXPLANATION OF CHANGES REQUESTED FOR FISCAL YEAR 1983
(Dollars in thousands)

	Permanent Positions	Average Positions	Amount
Program Changes:	—	—	$ —
Other Changes:			
Increases necessary to maintain current levels:			
1. Provide for pay act restoration:			
a. To provide for restoration of FY 1982 reduction	—	—	18
Subtotal, Other Changes	—	—	18
Reductions, nonrecurring costs and savings:			
1. Program reductions	-1	-1	-163
Total, Other Changes	-1	-1	$ -145
Total Increases or Decreases 1983 Compared With Proposed Authorized Level	-1	-1	$ -145

SUMMARY JUSTIFICATION OF FY 1983 BUDGET ESTIMATE

General Statement

The "Chrysler Corporation Loan Guarantee Act of 1979" (P.L. 96-185) was passed by Congress so that Chrysler Corporation could re-emerge as a commercially viable, self-financing entity.

The Guarantee Act established a five-member Loan Guarantee Board to implement its terms. The Board is comprised of three voting members and two non-voting members. The voting members are the Secretary of the Treasury, as Chairperson, the Comptroller General of the United States and the Chairman of the Board of Governors of the Federal Reserve System. The non-voting members are the Secretary of Labor and the Secretary of Transportation.

The Act authorizes the Board to guarantee up to $1.5 billion principal amount of loans (plus interest thereon) of the Chrysler Corporation. The guarantees can be issued until December 31, 1983.

Loan guarantees authorized under this legislation will not require budgetary outlays if Chrysler emerges as a viable concern which no longer needs Federal assistance. The Board levies a one percent per annum guarantee fee on the outstanding principal amount of guaranteed loans. Through 1985, it is estimated that these loan guarantee fees will amount to approximately $50 million. The administrative costs of this program will total approximately $10 million over that period.

The activities of the Chrysler Corporation Loan Guarantee Program are carried out in the Office of the Secretary of the Treasury Department. To administer this program, an Office of Chrysler Finance was established. Its purpose is to monitor closely the adherence of Chrysler Corporation to the intent of the Act, in order to achieve the aims of assistance, while protecting the Government's position.

The "Chrysler Corporation Loan Guarantee Act of 1979" (P.L. 96-185) authorizes a five-person Loan Guarantee Board, chaired by the Secretary of the Treasury to guarantee up to $1.5 billion of Chrysler Corporation debt through December 31, 1983. In accordance with the legislation, the Secretary of the Treasury is responsible for establishing and administering a loan guarantee program for the Chrysler Corporation.

The fiscal year 1983 budget request assumes 13 average positions and $1,211,000. These funds and positions are necessary to maintain the Office of Chrysler Finance and related support activities in the Treasury Department.

The responsibilities and duties of this program required to carry out the mandate of the Act are as follows:

-- Review of Financing Plan. Chrysler must also submit a satisfactory Financing Plan to meet the financing of

Chrysler as reflected in the Operating Plan for the period covered by the plan. This plan must include an aggregate amount of non-federally guaranteed assistance of at least $1.5 billion from financial commitments or concessions from persons with an existing economic stake in Chrysler. This plan must be accompanied by satisfactory assurances of feasibility and be updated annually so long as any guarantees are outstanding. Before any guarantee can be extended, Chrysler must raise matching non-Federal loans or concessions. Therefore, the Office of Chrysler Finance is responsible for review of the Financial Plan to assure its soundness and accuracy. The Office determines and carries out negotiations involving those items and amounts that may be included in satisfying the non-Federal aid requirement.

— Review of Operating Plan. Before any guarantee commitment may be issued, Chrysler must submit a satisfactory four-year Operating plan (including budget and cash flow projections) for the Company's current fiscal year and the next succeeding three fiscal years which demonstrates that the Company will emerge viable and self-financing thereafter. In addition, Chrysler must update the Operating Plan and prepare reconciliations between actual performance for that fiscal year and the Operating Plan. The analysis of these plans and reports by the Office of Chrysler Finance is done on a continuing basis. Functions involved in this endeavor are the inspection of accounts, books, records, transactions, and other financial documents of Chrysler and any other financing agent for which an application for a guarantee has been made.

— Findings for Commitments and Guarantees. In addition to determining that the Chrysler's Operating and Financing Plans are "realistic and feasible", the Office of Chrysler Finance performs various tests to determine that there is a reasonable prospect for Chrysler to continue as a "going concern in the automotive industry" to repay its guaranteed loans. Moreover, additional findings include: (1) submission of satisfactory Energy Savings Plan, (2) effects on economy of a Chrysler failure, (3) analysis of employee stock ownership plan, and (4) relation of guaranteed and non-guaranteed assistance.

— Payment to the Government. A guarantee fee of one percent per annum on the outstanding principal amount of loans guaranteed is paid to the Government by Chrysler Corporation. In addition, the Secretary of Treasury can also negotiate additional compensation, which may be other than cash (for example, the Board has required Chrysler Corporation to issue warrants at the rate of 1.2 million shares/$100 million of loan guarantees). All amounts collected by the Secretary of Treasury will be deposited in miscellaneous receipts of the Department of the Treasury. If the program is successful, it will produce no net cost to the Government.

— Reports to Congress. The Office of Chrysler Finance will submit to the Congress annually a full report with respect to its activities.

In addition, the functions of this Office will include assessing and analyzing the economic merits and implications of the course of action available to the Secretary to carry out his responsibilities under the Act; e.g., in the event that Chrysler defaults or materially departs from the terms and conditions of the Act. To execute its functions the Office will maintain liaisons with other Executive agencies, the Congress, the General Accounting Office, and representatives of Chrysler. Responses to inquiries and correspondence, Congressional testimony, briefing papers, and other documents or position papers will be prepared by this Office to keep all interested parties informed.

Recognizing that it is not reasonable or cost effective to put in place in the Treasury Department all of the expertise necessary to conduct this activity a percentage of funds requested provides for contractual services with experts in the private sector. For example, a private accounting firm is contracted to assist the Office of Chrysler Finance in administering the Loan Guarantee Program. Another contract is used to provide legal services.

CHRYSLER CORPORATION LOAN GUARANTEE PROGRAM
ADMINISTRATIVE EXPENSES

For necessary administrative expenses, as authorized by the Chrysler Corporation Loan Guarantee Act of 1979 (Public Law 96-185), $1,211,000.

(Additional authorizing legislation to be proposed.)

NOTE: The appropriation for this account for 1982 had not been enacted at the time this budget was prepared. The 1982 amounts shown below are based upon a continuing resolution (P.L. 97-92) in effect through March 31, 1982.

EXPLANATION OF LANGUAGE CHANGES: None

Explanation of Program and Other Changes for Fiscal Year 1983

I - Program Changes

No program increases are requested for FY 1983.

The Chrysler Corporation Loan Guarantee program was established on January 7, 1980 when the President signed the Chrysler Corporation Loan Guarantee Act of 1979. The act authorizes the Loan Guarantee up to $1.5 billion principal amount of loans (plus interest thereon) for the benefit of the Chrysler Corporation. The guarantees may be issued until December 31, 1983 and cannot extend beyond December 31, 1990.

In accordance with the legislation, a board consisting of the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System and the Comptroller General are responsible for establishing and administering a loan guarantee program for the Chrysler Corporation. These responsibilities include: (1) review of the financing plan to assure its soundness and accuracy, (2) determination of the prospect of repayment of a guarantee loan, (3) assessment and analysis of the economic merits and implications of the actions taken under the Act, and (4) preparation of an annual report to Congress on Chrysler's activities.

II - Other Changes

	Average Positions	Amount
Total increases necessary to maintain the current FY 1982 level in FY 1983	—	$ 18,000
1. Pay act restoration	—	$ 18,000

This adjustment provides funds to cover full year costs of the 1982 pay raise as authorized by Executive Order 12330 dated October 15, 1981. The increase represents the restoration of the FY 1982 reduction.

Total cost of reduction, non-recurring costs and savings	-1	-163,000
1. Program reductions	-1	$-163,000

As part of the President's program to reduce Federal expenditures, a program reduction of one funded position and $163,000 is proposed. In addition to reductions in the areas of personnel compensation and benefits, a reduction will be taken in the "other services" object class. The objectives described above in the base narrative must, by law, be met regardless of the level of financial resources available. Only the quality and timeliness of these efforts will be affected by the funding level.

Standard Classification Schedule
(Direct Obligations Only)

(Dollars in thousands)

	Actual 1981	Authorized Level 1982	Estimate 1983	1983 Changes over 1982
Total number of permanent positions	12	17	16	-1
Average paid employment	10	14	13	-1
Object Classification				
Personnel Compensation:				
Permanent positions	$ 299	$ 402	$ 379	$ -23
Positions other than permanent	7	—	—	—
Other personnel compensation	13	10	10	—
Total personnel compensation	319	412	389	-23
Personnel benefits	26	37	34	-3
Travel and transportation of persons	16	30	30	—
Standard Level User Charges	20	20	20	—
Rents, communications and utilities	32	32	32	—
Printing and reproduction	4	5	5	—
Other services	610	817	698	-119
Supplies and materials	2	2	2	—
Equipment	—	1	1	—
Total obligations	1,029	1,356	1,211	-145
Unobligated balance lapsing	320	—	—	—
Total Appropriation, Authorized Level, and Budget Estimate	$1,349	$1,356	$1,211	$ -145

EXPLANATION OF OBLIGATIONS BY OBJECT CLASS

	(Dollars in thousands)			
	Actual 1981	Authorized Level 1982	Estimate 1983	1983 Changes over 1982
PERSONAL SERVICES				
Personnel compensation:				
Permanent positions	$299	$402	$379	$-23
Positions other than permanent	7	—	—	—
Other personnel compensation	13	10	10	—
Personnel benefits	26	37	34	-3
Total personnel services	$345	$449	$423	$-26

Personal services costs include all salaries and personal benefits which are paid to the Office of Chrysler Finance employees. These include health insurance, the Government's contribution to employee retirement plans, accrued leave, and salary and overtime payments. Such costs are affected by numerous factors including pay increases, the number of work days in the fiscal year and within-grade increases. The principal factors affecting costs in 1983 are: (1) a decrease caused by the withdrawal of one FTE position and (2) an increase for the restoration of FY 1982 pay act funding.

TRAVEL AND TRANSPORTATION OF PERSONS				
Travel	$16	$30	$30	$—

These resources are used to pay for per diem, carrier charge, and other costs associated with travel to carry out the objectives of this program.

RENTS, COMMUNICATIONS AND UTILITIES				
Rents, Communications and Utilities	$52	$52	$52	$—

These resources provide funding for equipment rental, copy machine rental, communication services, mail services, telephone charge, etc. In addition, these funds are required for anticipated billings by the General Services Administration (GSA) for the rent and maintenance of leased space by the Office of Chrysler Finance.

EXPLANATION OF OBLIGATIONS BY OBJECT CLASS
(continued)

	(Dollars in thousands) Actual 1981	Authorized Level 1982	Estimate 1983	1983 Changes over 1982
PRINTING AND REPRODUCTION				
Printing and Reproduction	$4	$5	$5	$—

This category includes the estimated cost of printing and reproduction provided by or through the Department printing plant.

OTHER SERVICES				
Other Services	$610	$817	$698	$-119

The resources in this object class are used for services such as inter/intra agency agreements, health services, training, and special contracts for the administration of the program in accordance with the requirements of the "Act."

SUPPLIES AND MATERIALS				
Supplies and Materials	$2	$2	$2	$—

This represents the estimated costs of expendable office supplies purchased through the General Services Administrative Federal Supply Schedule Sources at local (GSA) self service stores and purchasing subscriptions for newspapers and periodicals.

EQUIPMENT				
Equipment	$—	$1	$1	$—

These resources are for office furnishings such as typewriters and desk top calculators, and the costs of miscellaneous furniture, furnishings and equipment.

DEPARTMENT OF THE TREASURY
CHRYSLER CORPORATION LOAN GUARANTEE PROGRAM,
ADMINISTRATIVE EXPENSES
Numbers of Civilian Personnel

	Number of Employees at End of Year					
	1981 Actual		1982 Estimate		1983 Estimate	
	Full-time in Permanent Positions	Total	Full-time in Permanent Positions	Total	Full-time in Permanent Positions	Total
Chrysler Corporation Loan Guarantee Program, Administrative Expenses	12	12	16	16	15	15

SUBCOMMITTEE RECESS

Senator WEICKER. Thank you very much. The subcommittee will recess until April 21, 1982, when we hear from several of our related agencies.

[Whereupon, at 11:15 a.m., Thursday, March 25, the subcommittee was recessed, to reconvene on Wednesday, April 21.]

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

WEDNESDAY, APRIL 21, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:35 a.m., in room S-146, the Capitol, Hon. Lowell P. Weicker (chairman) presiding.

Present: Senator Weicker.

FEDERAL COMMUNICATIONS COMMISSION

STATEMENT OF MARK S. FOWLER, CHAIRMAN

ACCOMPANIED BY:

COMMISSIONER ANNE P. JONES
COMMISSIONER ABBOTT M. WASHBURN
COMMISSIONER JOSEPH R. FOGARTY
GARY M. EPSTEIN, CHIEF, COMMON CARRIER BUREAU
LARRY E. HARRIS, CHIEF, BROADCAST BUREAU
JAMES C. McKINNEY, CHIEF, PRIVATE RADIO BUREAU
EDWARD J. MINKEL, MANAGING DIRECTOR
THOMAS P. CAMPBELL, ASSOCIATE MANAGING DIRECTOR, OPERATIONS

PREPARED STATEMENTS

Senator WEICKER. Our first request is that of the Federal Communications Commission. The amount requested is $74,446,000, a decrease of $5,578,000 from the 1983 base, and provides for 1,602 full-time permanent positions.

Appearing on behalf of this request is Mark S. Fowler, the Chairman. Mr. Fowler will you introduce those accompanying you? We will accept your statement in its entirety in the record at this point, and hope you will synopsize it so we can get on to the questions.

[The statements follow:]

STATEMENT OF MARK S. FOWLER

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I APPRECIATE THE OPPORTUNITY TO REVIEW WITH YOU THE FEDERAL COMMUNICATIONS COMMISSION'S FISCAL YEAR 1983 BUDGET ESTIMATES. WITH ME TODAY ARE MY SENIOR STAFF MEMBERS INCLUDING EDWARD MINKEL, OUR MANAGING DIRECTOR; GARY EPSTEIN, CHIEF OF THE COMMON CARRIER BUREAU; LARRY HARRIS, CHIEF OF THE BROADCAST BUREAU; JIM MCKINNEY, CHIEF OF THE PRIVATE RADIO BUREAU; STEVE SHARP, OUR GENERAL COUNSEL; STEVE LUKASIK, THE CHIEF SCIENTIST; PETER PITSCH, CHIEF OF THE OFFICE OF PLANS AND POLICY; WILLIAM JOHNSON, CHIEF OF THE CABLE TELEVISION BUREAU; RICHARD SMITH, CHIEF OF OUR FIELD OPERATIONS BUREAU; BILL RUSSELL, CHIEF OF OUR OFFICE OF PUBLIC AFFAIRS; AND TOM CAMPBELL, OUR ASSOCIATE MANAGING DIRECTOR FOR OPERATIONS.

OUR FY 1983 BUDGET ESTIMATES PROPOSE A TOTAL OF $74,446,000 AND 1,602 PERMANENT POSITIONS. THIS IS A REDUCTION OF $2,454,000 AND 260 PERMANENT POSITIONS FROM OUR EXPECTED FY 1982 APPROPRIATION OF $76,900,000 AND 1,862 PERMANENT POSITIONS.

BEFORE I GO INTO THE DETAILS OF OUR PROPOSED BUDGET, I WANT TO CLEARLY STATE THAT I SUPPORT THE PRESIDENT'S BUDGETARY GOALS AND BELIEVE THAT BUDGETARY REDUCTIONS MUST PLAY A SIGNIFICANT ROLE IN THE ECONOMIC RECOVERY PROGRAM. ONCE THE PRESIDENT'S DETERMINATION WAS MADE FOR OUR FY 1983 BUDGET, WE WORKED VERY HARD TO DEVELOP A PLAN WHICH WOULD ALLOW US TO MEET BOTH THE PRESIDENT'S DOLLAR TOTALS AND OUR STATUTORY GOALS. WE RECOGNIZE THAT MEETING BOTH OF THESE OBJECTIVES IN FY 1983 WILL BE DIFFICULT, PARTICULARLY WHEN THE INEFFICIENCIES OF THE REDUCTION-IN-FORCE SYSTEM ARE FACTORED INTO OUR PLANNING AND IN THE FACE OF RISING WORKLOADS IN MANY OF OUR PROGRAMS. I WOULD ALSO NOTE THAT NEITHER OUR FY 1982 NOR OUR FY 1983 BUDGET TAKES INTO ACCOUNT ANY NEW RESPONSIBILITIES WE MIGHT RECEIVE UNDER THE A T & T ANTITRUST CASE CONSENT DECREE OR ANY OF THE NEW RESPONSIBILITIES CONTAINED IN THE HOUSE OR SENATE PROPOSALS FOR NEW COMMON CARRIER LEGISLATION.

To fully explain the details of our FY 1983 proposed Budget, I would first like to explain how the total was developed. Last Fall, we received our initial FY 1983 Budget Target from OMB of $64,200,000. The Commission then conducted a series of budget and program analyses to determine the impact on our programs at this funding level. We determined that to reduce from our FY 1982 level of $76,900,000 to a $64,200,000 total, we would take the following actions:

- Implement a Reduction-in Force of 296 positions on October 1, 1982 which would save $7,400,000. The 296 positions to be eliminated were identified through our recent program evaluation effort. These reductions will impact virtually every program at the Commission;

- Maintain a hiring freeze throughout FY 1982 which would generate savings in FY 1983 of $1,494,000. The hiring freeze would reduce our FY 1982 personnel ceiling from 1,941 to 1,862;

- Reduce our Other Objects estimates by $3,083,000. The reductions in our Other Objects accounts are attributable to lower staff levels due to the proposed Reduction-in-Force and many accounts were also reduced further consistent with our strategy of funding only the highest priority requirements in FY 1983;

- Eliminate all remaining non-permanent staff to save $391,000. Non-permanent employment has been reduced by approximately 40% in FY 1982; and

- Furlough the permanent staff for 2.6 days saving $476,000. We estimate that this action will reduce our work effort in FY 1983 by approximately 16 workyears.

Once we determined that these actions would be required to meet the $64,200,000 total, we found that we had several high priority requirements which were unfunded at the $64,200,000 level.

After discussions with OMB, these additional requirements were included in our FY 1983 Budget Estimates as follows:

- $2,838,000 to offset the costs of the October, 1981 pay raise and the January, 1982 Executive pay raise. Of the $2,838,000, $2,001,000 is for the October 1981 cost of living raise and $837,000 is for the January, 1982 Executive Level pay raise;

- $2,104,000 in severance pay, relocation expenses, and unemployment payments, required to implement the RIF of 296 employees. Of the $2,104,000, $1,700,000 represents the estimated cost of severance pay, $398,000 is associated with relocation expenses and $6,000 is for unemployment compensation;

- A proposed program increase of $2,194,000 and 21 new positions to implement our Uniform System of Accounts, Computer II, and Depreciation Rates decisions. Seven positions are being requested to develop a new Uniform System of Accounts, 11 positions are being requested to implement Computer II and three positions are being requested for work on Equal Life Group Depreciation. The $2,194,000 includes compensation and benefits funds for

THE 21 NEW POSITIONS, $200,000 IN SYSTEMS DEVELOPMENT FUNDS TO HIRE AN EXPERT TO PLAN A COMPUTERIZED DATA BASE FOR COMPUTER II IMPLEMENTATION AND $1,500,000 IN PROGRAM ASSISTANCE FUNDS FOR TWO CONSULTANTS TO PERFORM ASSET VALUATION WORK ASSOCIATED WITH THE ESTABLISHMENT OF A FULLY SEPARATED SUBSIDIARY OF A T & T TO PROVIDE NON-REGULATED SERVICES;

- $538,000 AND 15 NEW POSITIONS TO BEGIN PROCESSING THE SUBSTANTIAL NUMBER -- SOME 6,000 -- OF LOW POWER TV APPLICATIONS NOW PENDING. THE $538,000 INCLUDES COMPENSATION AND BENEFITS FUNDS FOR THE 15 NEW POSITIONS AND $300,000 TO PURCHASE A MINICOMPUTER FOR THE AUTOMATED PROCESSING OF LOW POWER TELEVISION APPLICATIONS. THE COMMISSION APPROVED, ON MARCH 4, 1982, THE FINAL RULES FOR THIS NEW TV SERVICE. THE REPORT AND ORDER FOR THAT PROCEEDING WILL BE RELEASED IN THE NEXT SEVERAL WEEKS. CURRENTLY, AND UNTIL THE EFFECTIVE DATE OF THE REPORT AND ORDER, FREEZE EXCEPTION APPLICATIONS ARE BEING PROCESSED MANUALLY. SINCE JANUARY 1, 1982, 77 LOW POWER TELEVISION AND 271 TELEVISION TRANSLATOR APPLICATIONS HAVE BEEN PROCESSED TO DISPOSAL INCLUDING 40 ALASKA LOW POWER TV APPLICATIONS. FORTY-EIGHT OF THE LOW POWER AND 103 OF THE TELEVISION TRANSLATOR APPLICATIONS WERE DISPOSED OF IN MARCH, 1982.

- $463,000 TO EXPAND OUR MANAGEMENT INFORMATION NETWORK. OF THIS TOTAL, $300,000 WILL BE USED TO PURCHASE A MINI-COMPUTER REQUIRED FOR THE NETWORK. THE REMAINING $163,000 IS REQUIRED FOR OTHER EQUIPMENT RELATED TO THIS SYSTEM. WE BELIEVE THIS TO BE AN IMPORTANT PROGRAM AREA WHEN WE ARE EXPECTING TO OPERATE WITH FEWER STAFF MEMBERS;

- $105,000 TO RESTORE REDUCTIONS IN CERTAIN OTHER OBJECT ACCOUNTS FOR HIGH PRIORITY REQUIREMENTS SUCH AS OFFICIAL MAIL; AND LASTLY

- $2,004,000 WHICH WE ESTIMATED WOULD BE REQUIRED TO FUND OUR RELOCATION AT A CONSOLIDATED HEADQUARTERS. ON MARCH 2, 1982, THE GENERAL SERVICES ADMINISTRATION PROVIDED US WITH A PROPOSED RELOCATION SITE WHICH THE COMMISSION DETERMINED TO BE UNACCEPTABLE. ON MARCH 11, 1982, THE COMMISSION VOTED TO WITHDRAW ITS REQUEST FOR A CONSOLIDATED FACILITY FROM THE GENERAL SERVICES ADMINISTRATION. GSA WAS SO ADVISED. TO DATE WE HAVE RECEIVED NO OFFICIAL RESPONSE FROM GSA REGARDING THIS MATTER.

SINCE THE FY 1983 BUDGET ESTIMATES WERE PREPARED, GSA HAS UNDERTAKEN TO RELOCATE THE STAFF LOCATED IN OUR ANNEX AT 1229 20TH STREET TO AN EXISTING GSA BUILDING AT 19TH AND M STREETS. WE EXPECT THIS RELOCATION WILL BE COMPLETED BY MAY 31, 1982.

THESE ADDITIONAL ITEMS, WHEN ADDED TO OUR BASE OF $64,200,000 AND 1,566 POSITIONS, BRING OUR TOTAL FY 1983 BUDGET ESTIMATE TO $74,446,000 AND 1,602 POSITIONS.

THIS COMPLETES MY PREPARED STATEMENT. I WOULD BE PLEASED TO ANSWER THE COMMITTEE'S QUESTIONS.

STATEMENT OF JOSEPH R. FOGARTY

I appreciate this opportunity to present my separate views on the budget submission of the Federal Communications Commission (FCC) for FY 1983.

As Chairman Fowler's testimony has indicated, our FY 1983 budget submission complies with the Office of Management and Budget target of $74,446,000 and 1,602 full-time positions. However, I would point out that while this target represents a three percent reduction when compared to our expected FY 1982 appropriation of $76,900,000, in fact our FY 1982 program base has been reduced by approximately $12,000,000. As Chairman Fowler has stated, the Commission first received a budget target from OMB of $64,200,000 and determined that in order to meet this target, a reduction in force of 296 positions would be required, as well as the elimination of all non-permanent staff and a furlough of the remaining staff for 2.6 days. It was only after we outlined these actions to meet this target that OMB approved separate increases of approximately $10 million to meet new program requirements for FY 1983. While I appreciate the recognition by OMB of our new program needs, my primary concern is with the substantial reductions to our FY 1982 base which have been required to reach the original $64,200,000 target.

Chairman Fowler has stated his support of the President's budgetary goals and his belief that further budgetary reductions must play a significant role in this Nation's economic recovery program. While I, too, support the goal of national economic recovery, I will leave to Congress the fundamental question of whether the President's budget is an effective and realistic plan for attaining that goal. As a Commissioner of an independent regulatory agency ultimately accountable to you, the Congress, I do feel obligated to advise you of the impact of this FCC budget submission on the Commission's ability to meet the responsibilities you have given us under our existing statutory mandates. Here, I must concede at the outset that it is difficult to gauge program-specific impacts of the FY 1983 budget submission before you. Despite a paucity of specific agency impact analysis, I think certain effects are clear and immediate.

Under the budget submission before you--indeed, even under our expected FY 1982 appropriation--speed of service in basic application and authorization processing will decline substantially. This means that American business and commercial enterprises dependent on efficient, readily available, and low-cost telecommunications capacity will suffer service delays and shortages. It means that telecommunications service and equipment providers will be delayed by FCC approval backlogs. It means that private sector competition in telecommunications will be impeded.

Under the budget submission before you, FCC programs now underway to provide the necessary regulatory structures and process for new and revolutionary facilities and services may be slowed or even halted. This means that exciting and highly beneficial services such as low-power television, direct broadcast satellite television, teletext, and cellular mobile radio may not be made available to the American people as rapidly and efficiently as demand requires and entrepreneurial initiative would otherwise produce. It means that future telecommunications facilities and services now on industry drawing boards may have to remain on the drawing board because of inadequate FCC planning and processing resources. It means that this Nation's pre-eminent lead in telecommunications technology and its competitive position in world markets may be jeopardized.

The FCC's pending Direct Broadcast Satellite (DBS) proceeding graphically illustrates the flow of economic and commercial benefits which may be impeded if the Commission lacks the resources to move ahead expeditiously. Using data supplied by one DBS applicant, Satellite Television Corporation (STC), the Bureau of Labor Statistics of the U.S. Department of Labor has projected that by 1987 a nationwide STC DBS service will support approximately 23,000 jobs directly or indirectly. According to the Bureau, the number of jobs supported by STC would level off to about 15,500 in 1992 and remain there as long as STC maintains the level of operations projected for that time period. Industries which would be positively impacted by DBS development include program production, manufacturing of home equipment, installation and repair of such equipment, and retail merchandising. A wide variety of other industries and lines of commerce, ranging from banking and insurance to spacecraft and electrical components manufacture, would also be favorably affected and stimulated. Other DBS applications have been accepted for filing in addition to STC's application, and these additional applications hold similar promise of positive effects on the national economy.

The development and deployment of cellular mobile radio telephone service represents another significant and substantial opportunity for technological and economic progress. Industry evaluations predict that cellular services will increase the mobile communications market from its current $500 million annual level to over $6 billion. The total investment in supporting communications plant is estimated to exceed $2 billion during the next 10 years. The competitive provision of mobile terminals will create an additional $5 billion industry. Significant new business opportunities will be created in the manufacture, distribution, installation, and service of cellular equipment, and

the net result will be thousands of new job opportunities in several diverse industries.

DBS and cellular mobile radio are only two examples of what is possible as the telecommunications revolution continues its expansion of services and technological development. The critical point here is that the economic benefits of this revolution must not be forfeited, postponed or diminished for lack of adequate FCC resources. It would be unwise and wholly unproductive to reduce the capability of the FCC to administer the regulatory programs which are essential prerequisites for these industry contributions to the national economic welfare. My real fear is that the budget submission before you fails to recognize these pragmatic considerations in its all-consuming preoccupation with fiscal austerity. From the perspective of this Nation's real economic growth, this FCC budget appears to me penny-wise and pound-foolish.

Chairman Fowler's testimony has referred to the Commission's substantial common carrier workload and has noted that the FCC budget submission for FY 1983 includes a program increase of $2,194,000 and 21 new staff positions to implement our Uniform System of Accounts, Computer Inquiry II, and Depreciation Rate Revision decisions. The representation is that these additional funds and positions will allow the Commission to keep its head above water in the rapidly changing common carrier field. While I credit the intention, I must observe that a resource shortfall in this area would severely jeopardize our ability to make a rational and fair transition to the deregulated environment prescribed by Computer II with potentially disasterous consequences for the telecommunications industry and the critical public interest it serves. Literally billions of dollars are at stake here, along with the success or failure of the Commission's pro-competitive common carrier policies. In my judgment, this resource area is one in which we must err, if at all, on the side of too much rather than too little. Unfortunately, our budgetary crystal ball is particularly clouded here in view of the pending AT&T-Department of Justice Consent Decree modification and the likely increase in FCC responsibilities if that proposed settlement is to be implemented. The AT&T-DOJ settlement agreement is thrusting the United States into a brave new world of telecommunications, and it will be largely the responsibility of the FCC to ensure that this new world is fair and rational, as well as brave. I urge the Congress and this Subcommittee to ensure, in turn, that the Commission will have the resources to meet these increased responsibilities.

I am also concerned that the budget submission before you will likely result in diminished enforcement capabilities at the FCC. We have traditionally

relied on the good faith compliance of our licensees as the cornerstone of our enforcement programs. This approach has worked well in the past in large part because the respective industries have been aware that rules violations would be detected and sanctioned with administrative efficiency. However, with the cutbacks imposed by FY 983 budget reductions, our enforcement and compliance capabilities are on the decline. For example, an initial staff analysis has been constrained to rank broadcast rule enforcement at the lowest priority level. I believe it will be similarly difficult to maintain current levels of our radio interference monitoring and enforcement capability in the field. The FY 1983 budget submission before you will only exacerbate these negative resource effectiveness trends in the enforcement area.

I wish to make it clear that I am not reflexively opposed to any and all additional cuts in the FCC's budget. Nor am I enamored with regulation for its own sake. I believe we do have a fundamental and ongoing responsibility to subject all our rules and policies to cost-benefit analysis, and to deregulate, subject to statutory constraints and compliance with administrative due process, wherever sound analysis demonstrates that the public interest would be better served by that action. Such evaluation is ongoing at the Commission, and I support these efforts.

However, I must also state my unequivocal opposition to budgetary "backdoor" deregulation which denies opportunity for deliberate Commission and Congressional review and public comment and ignores existing statutory mandates enacted by the Congress. I do not subscribe to any strategy which would maintain rules and regulations on the books as mandated by statute or public interest finding but abdicate their enforcement on ostensible grounds of fiscal austerity. I do not want to see our Equal Employment Opportunity programs or our Section 315 and Fairness Doctrine responsibilities become pious fictions for lack of enforcement resources. I do not want to see our commitment to fostering new opportunities for competitive telecommunications industry entry thwarted by lack of staff planning and implementation capability. Yet, these appear to me to be some of the clear and likely consequences of the budget submission before you because these reductions go through the bone and into the marrow of the agency.

It is a paradox of deregulation or "unregulation" that at least in the short run more work for the agency, not less, is created. In the face of this reality, we cannot simply pledge to "do more with less." These budget reductions mean that we will be doing less with less, if not nothing with little. I firmly believe that the staff of the FCC serve the taxpayers and their govern-

ment with dedication and excellence and that they will continue to do so. However, the impact of the 296 full-time employee RIF and 2.6 day furlough required to absorb the proposed FY 1983 budget reductions can only have a seriously negative impact on employee morale and productivity.

In summary, I believe that the FCC FY 1983 budget submission before you will have a wide and deep negative impact on the effectiveness of the Commission and its responsiveness to the public interest. This budget submission, if approved, will not only limit our discretionary public interest programs; it will sharply compromise our basic application and authorization processing functions and impede, if not completely halt, programs supporting the rapid development of new technology and the efficient provision of new telecommuniations services to the American people. The FCC's budget must be evaluated from the vantage point of our responsibilities for this dynamic and vigorous telecommunications sector of our economy and society. The public interest in telecommunications is growing explosively in demand and in complexity, and the FCC must continue to have the resources to advance this imperative public interest. I firmly believe the contribution the FCC can make to our Nation's economic well-being and progress substantially outweighs whatever benefits might be derived from the reductions proposed by this budget submission.

I thank this Subcommittee and its Chairman for this opportunity to express my separate views, and I hope these views are helpful to you in your deliberations.

INTRODUCTION OF ASSOCIATES

Mr. FOWLER. First I would like to introduce Commissioner Anne Jones, Commissioner Abbott Washburn, and Commissioner Joseph Fogarty, and I have some of our staff here to answer any questions.

SUMMARY OF BUDGET PROPOSAL

Basically, to summarize, Senator, we have taken the President's budget mark and then we determined which current programs and which new programs we needed to implement. The FCC has been very active in some areas, and we appealed to OMB for additional resources to the $64,200,000 proposed OMB budget mark to take care of these new programs. We have indicated here with particularity, how much money would be used for these new programs and how the money would be spent.

We also indicate in our budget request that the $64,200,000 budget mark would mean a reduction in force of some 296 positions as of October 1, 1982. We propose to continue to maintain a hiring freeze throughout fiscal year 1982 although we would lift it in fiscal year 1983. We have had this freeze on since 1981, and at some point you must be able to hire new people where required.

This is a brief overview of my testimony. We believe we can live with this budget as proposed, or at least I do. Some of my fellow commissioners may have different viewpoints which they would like to express.

We have, consistent with this more austere budget, determined that we can meet the challenge of having fewer resources to cover, for example, increased processing requirements for applications and other programs through four means:

One, by our management by objective—MBO—program which expects and demands the best from our people; and I am happy to say our production and productivity in many areas is up dramatically in reducing applications backlogs.

Two, through program evaluation which the Commission has been involved in since late last year. We have targeted 13 programs initially for elimination, and we are looking at another 41 now to determine whether or not, consistent with the management principals of abandonment, we can eliminate these programs or whether we should modify them.

Three, we are also implementing more computer automation to process applications more quickly than using manual means.

Four, and last, we have certain plans for reorganization designed to maximize the resources we have within the agency to get the job done.

Senator WEICKER. Do you have anything further to say?

Mr. FOWLER. That is my summary.

COMMISSIONER WASHBURN'S STATEMENT

Senator WEICKER. What I would like to do in terms of procedure if there are no commissioners that have any additional views, but if there are, then let me hear them now before we get into questions here.

Mr. FOWLER. This is Commissioner Washburn.

Senator WEICKER. Have a seat up here.

Are there any other commissioners that wish to speak?

Who is this?

Mr. FOWLER. This is Commissioner Fogarty.

Senator WEICKER. You may proceed now. Your full statement will be included in the record.

Commissioner WASHBURN. I do not have a prepared statement, Mr. Chairman, but I did want to express a concern. I sympathize with Chairman Fowler's desire to stay within the OMB mark. He is a very able, hardworking, dedicated leader of the FCC. But I have to express my concern about the RIF of 296 men and women from the agency if that budget mark holds.

We have to eliminate 296 personnel in fiscal year 1983, and the reason for my concern about this is that this is an industry that is expanding, or exploding, in fact. I have been on the Commission now almost 8 years, and it has been an extremely interesting period, with breakthroughs almost every month. We are still preeminent in the world in this area, and this Commission is trying to referee all these matters that are complex issues, and regulating the biggest industrial giant in the

world—the A.T. & T. There are new things all the time. During those 8 years I have been on the Commission we have been able to just keep our heads above water, frankly.

We have been under a hiring freeze now for a little over 2 years, and of course with a hiring freeze, you would turn out a certain number of people, but some are people you do not like to have go, and you cannot replace them.

We had a high of 2,200 employees, and we are now at about 1,920. At the end of this fiscal year we expect to be at about 1,960.

Then if this present budget plan goes through, in fiscal year 1983 we would hit a low of 1,602. That is 600 bodies less than we had at our high, and I am just not—while I would like to believe you could do "more with less," I just do not think it is possible to meet our responsibilities with that kind of a cut.

I could enumerate the many things we are into, but you know most of them: Computer II, and the settlement with A.T. & T. is going to also increase our work without any doubt.

Mr. Chairman, I guess what I am asking is, is it necessary at a time when this small agency really, is responsible for such an enormous task, to take people away who are needed to do the job? Something has got to give, when you have more responsibilities and less people. I am afraid that what is going to give is our ability to service businesses and individuals who need service.

Take a situation like the new radio system, cellular telephone—the demand for quality, mobile telephone service in many metropolitan areas of this country is unmet. This new service is very necessary. We have this magnificent new technology to make your phone service in your car as good as you have at home or in your office. We want to bring that new technology to the public as fast as we can. Our report and order on it has been issued, and the applications are coming in. It is going to be very hard to process those applications with fewer people.

Some of the best of our young lawyers and engineers have already jumped ship, feeling they will be the first to be RIFed. Where are they going? They are going to private industry or to the Pentagon. We need them to process cellular radio, and it just seems to me that this is not a time to be handicapping the FCC when it has this great responsibility.

Senator WEICKER. Thank you.

COMMISSIONER FOGARTY'S STATEMENT

Commissioner FOGARTY. Mr. Chairman, I appreciate the opportunity to be here.

I would just like to repeat what I have said before to other committees of the Senate and the House. The view that this Commission can do more with less is impossible. I applaud the Chairman who is loyal to the administration in his effort to come up with a program that would allow the Commission to at least attempt to accomplish its objectives within the constraints of OMB's budget mark; but, based on 20 years experience, we will not do more with less, we will do less with less, and probably nothing with less.

In regard to abandoning ship, I think perhaps it would be better to abandon the Commission altogether, because to leave us with the inability to implement the programs which are really important to the American people, such as low-power television, cellular radio, and to try to do it with a skeleton force, is an impossible task, Mr. Chairman. We are not going to accomplish it, and I suggest if you want to really reduce the budget to the extent the administration has requested, you really ought to consider restricting totally the jurisdiction of the Commission.

Thank you.

GROWTH OF TELECOMMUNICATIONS INDUSTRY

Senator WEICKER. Some of the items that are mentioned already, the A.T. & T. investigation, the telephone service—and cable, that is something in your jurisdiction too—is it not?

Mr. FOWLER. Yes.

Senator WEICKER. Without trying to draw any partisan distinctions or conclusions on all of this, just as a lay person, totally outside of my governmental duties, I would certainly have to agree it seems this area is exploding. You cannot pick up a newspaper today where you do not see something that is going to eventually involve your Commission; it is as if we live in one of the most important decades of the electronic communications.

Even before these statements were made, I had prepared questions in light of a rather amazing increase on this, the avenue. How would you expect to do the job in 1983, with this explosion of activity which is in your area of jurisdiction?

I really do not see how you are going to do the job, and it is almost a basic question of good legislation and/or legislators that if there is something worse than no law at all, it is a law that is not enforced, and it seems to me that is where we are headed with this budget.

So I would like to give you a chance to respond to my question, and quite frankly in the course of my questions, I would like an answer.

Mr. FOWLER. Well, Senator, I think all of us share your concern here, particularly when we have new technologies exploding every day of the week, as you note. You pick up a newspaper any day of the week and somehow this agency is involved.

USE OF PAST RESOURCES

Now the first point I want to make is that I am not satisfied that the resources we had available in the past were effectively used, and that was not the fault of the civil servants. One of the things I have learned is the dedication of the Commission people once they understand what has to be done. This is evident in their advancement and recognition within the agency—that is their increased salaries, recognition, and increasing seniorities. We implemented the MBO system to respond to their performance. I am not satisfied the resources in the past were used effectively. That is my first point here. When we say we will do less, I do not accept that, because I do not accept the proposition that

some would say or plead to you that the resources were used well in the past, I do not believe they were.

COMPUTER II, CELLULAR RADIO, DIRECT BROADCAST SATELLITE SERVICE, AND USOA

Second, Commissioner Fogarty mentioned some of the new technologies, the computer II implementation task and so on. As to the cellular, we will be staffed for that adequately. The Commission, including Commissioner Fogarty, understands what the staffing plan is. On the direct broadcast satellite service, we will begin acting on applications filed sometime this past summer. This is of course subject to the 1983 conference in Geneva to allocate spectrum for the service.

On computer II, we implemented that task force last October. We asked OMB for additional money to carry out the implementation, and we received 11 additional people for fiscal year 1983. We also have seven additional people working on a new system of accounts for determining what the costs are for A.T. & T. and other common carriers.

We have asked for $1.5 million to assist in developing assets in conjunction with the implementation of computer II. This is a rather large sum, and has been included in the budget. Also, $200,000 for computer capacity to implement computer II is included in this amount.

GETTYSBURG, PA. APPLICATIONS PROCESSING

In all of the areas here, we do have or will have the resources to get the job done. We have made certain estimates on how long it takes us to process application backlogs at the Commission, and if I could, I would like to ask Jim McKinney to elaborate on this issue, although he has not been in his current position too terribly long. We have had certain estimates on how long it would take us to process applications in our Gettysburg, Pa. processing system. When Jim came in we had 190,000 applications pending, a grotesque backlog.

Jim, give the Senator a brief progress report.

Mr. McKINNEY. Yes, Senator, we had close to 200,000 pending applications in Gettysburg last September. Now it is reduced to less than 100,000, and that represents about a month's receipts. So, in effect, this means that all of the land mobile applications at Gettysburg are being processed in the same month they arrive.

We were able to accomplish this with some minimal automation within the present budget restraints. Our operations in Gettysburg are currently largely manual, in fact, much of our work in the Commission is manual.

As you apply some new automation for the first time you get tremendous paybacks, and we cut our speed-of-service down from 75 days last fall to the current 25 days.

Senator WEICKER. Well now, these particular applications, does that have anything to do with CB radios?

Mr. McKINNEY. Yes.

Senator WEICKER. Was not that just thrown out the window?

Mr. McKINNEY. That is not the case, it is not yet out the window, legislation has not passed.

Mr. FOWLER. Legislation was proposed to eliminate the need to license CB's.

PERSONNEL RESOURCES SUMMARY

Senator WEICKER. Well, what did you start off with in the way of personnel in fiscal year 1981?

Mr. CAMPBELL. We had about 2,000 employees on board.

Mr. FOWLER. We are now at 1,902 as of April 3.

Senator WEICKER. You are at 1,902, and it is proposed that you be down to where?

Mr. CAMPBELL. To 1,602 at the end of fiscal year 1983.

Senator WEICKER. It bothers me that without the specific knowledge that all of you have, all of the Commissioners, Republicans and Democrats, you have more knowledge than I do, but I am just not oblivious to the world around me, and if there were any agency of Government I would expect to be asking for increases to perform its mandate under the law, it is your agency.

In the formulation of this budget, was this a budget that your people drafted, constructed, or was this something done by the OMB?

Mr. FOWLER. Well, OMB came up with a budget mark and we had to determine how to meet that.

Senator WEICKER. They just gave you a figure?

Mr. CAMPBELL. They gave us a target for fiscal year 1983, and within that target there were a couple of proposals and areas they said they were looking at certain adjustments to meet that target.

We went back to OMB on appeal, and $10 million was added which brought us from the $64.2 million target up to the $74,446,000 which is before you today.

But within that $64 million target, the Commission went through a detailed program of evaluations to decide which adjustments would be necessary to meet that goal.

Mr. FOWLER. We went before OMB and they gave us an additional $10 million—it is that type of ball game, Senator. The Broadcast Bureau will tell you we are doing more work now than before with fewer people.

Senator WEICKER. I do not want to get into a debate here, I am sure in your Commission meetings——

Mr. FOWLER. They are very feisty meetings, I do not want to put it to a vote right now.

Senator WEICKER. My majority staff director here will refer to you as a majority of one on this issue today.

Commissioner WASHBURN. I will give you one example here.

Commissioner FOGARTY. And he is a Republican.

COMMISSION PRIORITIES

Senator WEICKER. I am really concerned about this, and I have several questions I want to have submitted for response to the record.

Let me ask this question of you: What do you deem as your highest priority area, or highest three priority areas, which you feel OMB might have been a little overly austere in their recommendations, if you could get the assistance of the Congress, in other words?

Obviously we have got to shuffle figures around too and give priorities, and I will probably assign some type of priority to your activity.

What do you deem as your priority where you might be falling a little short in the budget?

Mr. FOWLER. I honestly feel that I can do the job we have to do with the budget, only because we appealed for and received the additional $10 million. The $64.2 million OMB gave us was not sufficient for new programs and new responsibilities such as the computer II implementation.

To the extent that we asked for additional money which is included here, I feel very comfortable with this budget, it is not too much. If we had $150 million we could be a great agency, and if people want to say you need more money, you need more money. But the real answer is what do you need to do a good effective job and spend tax dollars wisely.

ENFORCING COMMISSION MANDATES

Senator WEICKER. That is what bothers me, and I will tell you why, Mark. I read in the paper this morning where we had the SEC before us—I read where the SEC indicated that within the budget constraints, they would enforce the laws as best they could.

I have got news for you, the news does not allow for fluctuations in enforcement. You are given a specific mandate, and it is true, to this extent Mr. Fogarty is correct. If the money is not there, then you had better change the law. You cannot have the law sitting out there and saying: "OK, because of budgetary constraints we are not going to be able to enforce portions of it, or we are only going to be able to enforce a part."

That is what worries me, when you say "reasonably" I worry about words like that. You are given a mandate and you have the law to enforce it, can you enforce the law fully with this budget?

Mr. FOWLER. Yes, sir.

Let me say there are matters of degree in how you enforce. Do you spot check or conduct an in-depth investigation of every radio station in the country? You can do it just as effectively if you do it on a sample basis than a more full-fledged investigation, because where we find people misrepresenting the law, we fine them or revoke their licenses. There are many stiff penalties, so there are ways, Senator, to enforce laws. Some laws require less resources than others, but that does not mean we will not continue to enforce to the letter all of the laws that the Congress has mandated we do enforce.

So it comes down to the analogy we have heard before, do we need 100 cops or 1 cop on every block, or 1 cop on every 20 blocks? That is the kind of argument you get into, and there is a balance there. Obviously having one on every block would be better than one on every 20, but you can still enforce a law with one on every 20.

Commissioner FOGARTY. You could enforce the immigration laws by trusting the immigrants to self discipline too. In reality, that approach abandons the implementation of the law.

I do not know what that approach would do to firearms or immigration regulation, but it will clearly disrupt the telecommunications industry.

IMPACT OF PROPOSED PERSONNEL REDUCTIONS

Commissioner WASHBURN. Mr. Chairman, Health and Human Services can cut programs, but 80 percent of our budget is personnel, and when you cut that, you cut bodies.

I came to Government under President Eisenhower and was Deputy Director of the USIA for 7 years; we had a RIF back then and it was devastating. It took 2 years to recover from that RIF.

Cellular radio will result in some mutually exclusive applications, and we are already getting such applications. They require hearings before administrative law judges. The Chief Administrative Law Judge has streamlined the system for processing those applications. She needs two additional lawyers and two engineers to assist her and the other justices, administrative law judges.

Now, you would think that would be very simple. The Commission voted her those lawyers and engineers. Well, what is happening is that there is a big argument within the Commission as to where the four are coming from. Nobody wants to give them up. The Broadcast Bureau does not want to, nor does the Common Carrier Bureau. We are under a hiring freeze so we cannot go out and recruit them, and that is the kind of a bind we are in all over the Commission.

Now I disagree with Commissioner Fogarty that we need to go out of business. We should stay in business, but we need the bodies to do this job in this terribly exploding period. It will get worse as far as the explosion goes. The whole decade of the 1980's will be fireworks in this area, and we should not be cutting our people out.

BUDGET REQUEST VERSUS GROWTH OF TELECOMMUNICATIONS INDUSTRY

Commissioner FOGARTY. May I add one thing? This industry we regulate, the telecommunications industry is one of the few industries in the United States today that is productive, that is actually adding to the gross national product.

So to me it seems counterproductive for the administration to cut us back when we are regulating the industry so as to promote and get the U.S. economy moving again. It is totally counterproductive in principle what OMB is trying to do to us.

Now I do not say we should go out of business, but the alternative is that we will not be able to properly enforce the laws you have given us,

and I think it would be better for the people of this country if we did not exist.

Mr. FOWLER. He is talking about business radio applications, and Mr. McKinney just told you how we were being more effective, to increase productivity.

Now the commissioners will have to do more thorough talking about doing less with less, they will have to point out where we are not doing the job.

LOW-POWER TELEVISION

Commissioner FOGARTY. Senator, we have 10,000 new applications pending for low-power television to promote minority participation in broadcasting—I do not know what the exact number is, at least 6,000 to 8,000. We are processing those by hand now. Now really, there is no way we can do that. We will get a computer some day, but that processing will not proceed in the timely fashion it should. We are making the same mistake, maybe worse than the one we made in CB radio.

So then we will come back to the Congress and say give us legislation that says delicense low-power television. In other words, if you make a mistake, you give up, and we may have to give up on low-power television.

I would hope by the time you see what we will have to do on cellular radio we will get the money to do the job properly.

Mr. FOWLER. Senator, obviously we are not going to give up. Now in regard to low-power television which the Commission authorized, we were absolutely astounded by the interest in the service. We thought perhaps there would be a modest number of applications. Instead, to our surprise, there were approximately 6,000 applications filed within a very short period of time.

So the Commission, with benefit of hindsight, could not have recognized at that time there would be such a gold rush in effect for low-power television.

But if I could, I would like to ask Larry Harris to indicate what we are doing with low power, that we are not just sitting idle.

Larry?

PROCESSING LOW-POWER TELEVISION APPLICATIONS

Mr. HARRIS. Mr. Chairman, on the low-power television, we asked for and received additional resources on the 1983 budget to allow us to buy a minicomputer to process the applications and also to add 15 additional people.

Right now we are processing applications by hand and averaging between 30 and 50 applications a month. We presently have——

Senator WEICKER. Per month?

Mr. HARRIS. Yes, sir.

We have on file 6,500 applications, 1,200 more come in every year under what we call an exception to the freeze. We believe when we lift the freeze we will receive another 10,000 to 12,000 applications.

Once we get the computer on line and the additional people in place, we believe we can start processing in the area of 300 to 400 a month to maybe as many as 500 a month. It will take us a lengthy period of time to reduce the backlog, but we have made provisions for it.

Senator WEICKER. But what are we talking about, just on the basis of what you have in hand and what happens—right now, in other words, nobody can file an application because of the freeze?

Mr. HARRIS. They are frozen except under exception, and we are processing by hand, and that is the only way we can do it.

Senator WEICKER. You are talking about 400 or 500 being processed in the course of a year?

Mr. HARRIS. That is right.

Mr. FOWLER. That is until October.

LOW-POWER TELEVISION BACKLOG

Senator WEICKER. In October you have some supplemental funds to get into the backlog?

Mr. HARRIS. We would not start making significant impact until January, because it will take a period of shake down and putting the people in place, so I do not anticipate any backlog decrease——

Senator WEICKER. When you start to bite into that backlog in January 1983, you are still talking about before the freeze, approximately anywhere between 3,000 and 5,000 a year?

Mr. HARRIS. Yes, sir.

Senator WEICKER. So you are probably talking about, with the present backlog taking a couple of years?

Mr. HARRIS. Yes, sir.

Senator WEICKER. That puts us up to 1985.

Mr. FOWLER. We are facing here authorizing perhaps as many as 10 times as many television stations as were authorized by the FCC in 1948.

Senator WEICKER. I agree, Mark, but if more is expected of you, that is right, it is not your fault, it is what is happening out there, and the industry is doing something that is totally contrary to what Mr. Stockman is doing, that is the problem. Each one is going his separate way.

DISCLOSURE WITH RESPECT TO THE BUDGET

Now I asked you a question earlier, and there is a memorandum here I see dated March 29 which I do not think is very helpful when the chairman of appropriations is asked questions. It is not with the intent of trying to create a confrontation within the administration that I ask these questions. In fact I am trying to work with you.

Much of what you said here I respect and accept, but we are running into these confrontations. This memorandum from Stockman says:

> In responding to specific questions on program and appropriation requests, witnesses will refrain from providing plans for the use of appropriations that exceed the President's request.

Now, is that the nature of your response when you say you are fine where you are? Are you aware of that memorandum?

Mr. FOWLER. Yes, sir; I am, and I am not following that memorandum.

Senator WEICKER. All right.

ADDITIONAL COMMITTEE QUESTIONS

I have other questions I will submit for the record.

I will say that I am troubled. The last point to be made here—and the reason I am troubled—is that the raw material that you are dealing with belongs to the American people. That is the problem.

That does not belong to one or two communications firms, CBS or Turner Broadcasting, but to the American people. And that is the reason for your being out there to make sure what is done with their property is properly done. I am concerned as to what has occurred in terms of technology in this day and age and the conflict it runs into.

Just the response given here, and obviously Mr. Harris and you are on the right track, but it would take a whole technology area, technology which achieves its successes or failures in days, weeks, or months; and say you are not able to handle it except in a matter of years. This is an asset of the country adding to our general wealth of technology and money, it does concern me.

I will take a look at the budget and discuss it further with members of the staff.

I thank you for appearing here. I do not run this committee in a normal way, I like to hear from everybody, and you were gracious in sharing the panel with your fellow commissioners.

Thank you.

[The following questions were not asked at the hearing but were submitted to the Commission for response subsequent to the hearing:]

Additional Committee Questions

QUESTION: The Commission proposes a number of personnel actions in order to reduce overall requirements and still allow for program increases. These actions include: 1) extending a freeze on employment at a savings of $1,494,000; 2) an employee furlough of 2.6 days at a savings of $476,000; and 3) a reduction-in-force of 296 employees and 399 workyears, or 20 percent of the Commission's workforce, at a savings of $7,400,000.

Congress provided funds in 1982 for a staffing level of 1,941 positions. This budget provides personnel actions highly disruptive to the Commission's work. Did you request funding from OMB to complement the 1982 program level set by Congress? Explain to the Committee how the FCC budget was set. Did you get your guidance from OMB based on the September revised budget? Did the Commission go back to OMB when it was clear, in November and December, that Congress was not going to accept the lower budget?

ANSWER: In September 1981 the Office of Management and Budget revised the Commission's FY 1982 budget request from $77,351,000 downward to $68,069,000. Our original request to OMB for FY 1983 was $86,246,000. The Congress, in the latest Continuing Resolution has set our FY 1982 funding level at $76,900,000. The FY 1983 budget was prepared with the goal of meeting the FY 1983 budget level set by OMB in the September revision to the FY 1982 budget. See the Budget and Accounting Act of 1921, 31 U.S.C., Chap.1., regarding the authority of OMB in this regard. After meeting the goal with various program reductions, we identified specific programs where additional funding would be required, such as Low Power TV and the Computer II decision. We went back to OMB and successfully appealed their budget mark to allow additional funding in our FY 1983 budget for these areas.

QUESTION: This budget request proposes significant cutbacks in direct services to the public in each major activity -- i.e., responding to public inquiries and complaints, preparing and providing instructional and educational material, and providing access to FCC data and information, as well as in acting on applications from the public. The result in some cases means substantial increases in backlogs. For instance the Commission now estimates that the number of written informal complaints about common carrier service which are processed in 1983 will be reduced 22 percent and the backlog will go from 1,500 to 4,000. Why are these programs which provide service directly to the public of such low priority?

ANSWER: The cutbacks may result in a reduction in direct services as well as delays in responding to complaints and congressional inquiries. However, many of the broadcast services we propose to eliminate do not directly affect the public--e.g., monthly compilations of complaints, and similar statistical reports. As we simplify, reduce, and eliminate unnecessary rules and regulations, fewer resources are needed to instruct the public about reporting requirements and other regulatory complexities. Thus, many public inquiries that formerly required lengthy individualized attention now often can be handled by form letter correspondence. In addition, with the renewal application process simplified by the short form application, and the license period for broadcast television and radio expanded, resources previously allocated to applications processing will be freed to handle enforcement, instructional, and educational functions.

Many activities performed by Field Operations Bureau staff are mandated by law or international treaty, or involve safety of life and/or property. These activities cannot be cut back, so reductions must be made elsewhere. As individual complaints and inquiries often have much less broad economic or social impact, response may be delayed with less harmful overall result to the public benefit and use of telecommunications systems.

A significant portion of the reduction requested in the Field Operations Activity's Public Service program is to come from discontinued radio operator examination and licensing; specifically, the amateur radio examination workload is proposed to be shifted from the FCC to volunteers, and the General Radiotelephone Operator License is to be abolished. The amateur radio workload shift to volunteers is contingent upon enactment of legislation currently under consideration. If is legislation is not enacted, or the Commission

decides not to eliminate the General Radiotelephone Operator License, backlogs in operator applications will develop. Otherwise, there will be no backlog in radio operator applications. It should be noted that the existence of a backlog in operator applications generally does not inconvenience the public, because temporary permits and continued operating authority are routinely granted pending renewal. However, if the FCC must continue to give amateur and general radiotelephone operator examinations in FY 1983, it will necessarily be on a limited schedule due to the unavailability of travel, space, and personnel resources.

Overall, we believe that the Commission can sustain these reductions and still effectively serve the public. There will, of course, be some adverse effect on the level of direct response to individual requests for information and some complaints. It can also be expected that our informal dispute resolution process will be less effective because of reductions in this area. However, with rising produccivity, elimination of unnecessary rules and regulations, and changes to application forms, we believe our overall level of direct service to the public will not be significantly affected.

QUESTION: In 1981, the Commission had $1,215,000 for Broadcast Enforcement. In FY 1982, we appropriated $1,010,000. Now, for FY 1983, you are requesting only $456,000--a reduction of 55 percent--and only 13 positions as opposed to 40 in 1981. Why? What impact will this reduction have?

ANSWER: In allocating its resources for FY 1983, the Bureau has placed prime emphasis upon authorization of new and existing services and on policy and rulemaking activities designed to facilitate new services and streamline or eliminate outdated rules and policies. Therefore, we have reduced those resources specifically targeted for enforcement of our rules. However, we intend to enforce our rules and policies as mandated by the Communications Act. Our enforcement activities will, of necessity, be more selective and we will rely upon written inquiries instead of on-site investigations where possible. Delays in responding to complaints and resolving cases will occur. However, we are currently considering whether to combine the functions of several divisions engaged in enforcement efforts in several bureaus. By consolidating the several hearing divisions we may be able to achieve certain economies of process that could at least partially compensate for resource reductions in individual enforcement programs.

QUESTION: You indicate that you had not had time to analyze the impact of the proposed AT&T antitrust settlement on your resource requirements. Now that more time has passed, can you estimate the major effects of the settlement on your regulatory activities, for example, on developing an access charge system, deregulating embedded customer premises equipment, and making adjustments in AT&T's rate base to reflect equipment transfers between AT&T and its divested local operating companies?

ANSWER: The effect of the settlement on the Commission's regulatory activities depends on the extent to which the Commission must concern itself directly in the implementation of the decree. In the Commission's amicus brief submitted to Judge Greene, we argued that the Commission has substantial responsibilities to oversee divestiture and to ensure that the transfer of lines and radio licenses does not harm the public interest. The Commission will monitor the proposed plan and will step in if it believes that proposals are contrary to the public interest. It is our hope that proposals will be so clear that they will require little investigation, and that the Commission's responsibilities can be handled without unduly imposing on the Commission's other activities.

An aspect of the settlement that may require substantial Commission resources is the valuation of assets that are transferred among the newly formed companies. If the Commission determines that book value is an appropriate means of valuing the transferred assets, relatively little Commission work will be required. It is possible, however, that the Commission will make some other determination.

One specific activity that we will not allow to be slowed is the determination of an appropriate access charge plan. An appropriate access charge is required under both the divested and the non-divested regimes. Divestiture only makes the need more apparent. For this reason, the Commission has asked the Common Carrier Bureau to consider access charges as the Bureau's most important item.

To some extent, the proposed divestiture will free resources from some parts of the Bureau at the same time as it draws resources into others. Such activities as the investigation into Bell System procurement practices and the AT&T License Contract process will be narrower in scope as a result of the divestiture. The deregulation of embedded customer premises equipment is of no less importance, however, and it is anticipated that the Commission will continue this activity, as scheduled. Clearly, however, much of the savings from divestiture will come in the future, while many of the costs must be borne at once. Fortunately, many of the costs will be borne only once. In the short term, at least, the divestiture of AT&T's operating companies will result in added work for the Commission. It is impossible to judge precisely the extent of the work and how much this added work will slow the Commission's other common carrier activities. Nevertheless, at this point it seems that any slowdown in important proceedings will be minor.

QUESTION: Why is the Commission requesting $1.7 million for the hire of consultants to work on Computer II. Why is this such a high priority? Don't you have staff who can fulfill this requirement?

ANSWER: Actually, the $1.7 million budget request is for two general categories of assistance in connection with Computer II, $1.5 million for consultants to establish the fair market value of equipment transferred to the separate subsidiary and $200,000 for computerized data base support. Our needs for these support services are detailed in the responses to other questions for the record presented to the Committee. Briefly, these services support the Computer II decision, a major change in the structure of the industry, in ways that supplement our existing staff. The $1.5 million contract will be used to hire consultants experienced in determining the fair market value of assets. The experience of our staff in prescribing depreciation rates is considerably different from the appraisal activity contemplated in the contract.

The $200,000 data base support contract will be used to hire programmers to set up systems necessary for auditing the new AT&T separate subsidiary. These individuals will help us finish a large, tedious task in a short enough time to meet Computer II deadlines.

QUESTION: On February 8, 1982, the Commission decided not to adopt the rules which are necessary to establish a random selection system to choose among applicants for initial licenses and construction permits in situations where their applications are mutually exclusive. What additional cost and delay is likely to result if such a system is not employed for services such as low power television and common carrier paging?

ANSWER: A random selection system or lottery system for selecting new applicants for initial licensing in the broadcast service would most probably expedite the authorization of new services, provided the Commission could conduct its review of petitions to deny and other similar objections after the random selection proceeding and then concentrate on the applicant selected in the lottery. If the Commission continues to utilize its present method of dealing with mutually exclusive applications for low power and other services, the Commission would have to designate such applications for a full comparative hearing. However, it should be noted that on March 4, the Commission adopted a streamlined comparative hearing procedure whereby low power hearings would be conducted largely on paper with limited discovery and oral testimony, and with Broadcast Bureau personnel acting as staff support to the Commission, which will be the ultimate decision-maker. This will eliminate two levels of hearing review before the cases would otherwise reach the Commission - the Administrative Law Judge and the Review Board. We believe that this stream-

lined procedure should facilitate low power authorizations. Depending upon the success of this new procedure, the Commission may utilize it in all broadcast services. It should also be noted that new language on a lottery system has been added to legislation pending before Congress, H. R. 5008. On May 5 the House Subcommittee on Telecommunications, Consumer Protection and Finance passed up H.R. 5008. Included in H.R. 5008 is a revised lottery system. Preliminary study of this revised random selection system suggests that it would provide the Commission with a workable lottery that could be eminently suitable for use in selecting low power and other licencees.

We do not yet know the full dimensions of the mutual exclusivity problem in common carrier paging. In 1981, the Commission designated approximately 25 hearings, in which 50 applications were at issue, to choose between competing applicants.

However, this number should be exceeded this year because the Commission made available up to 12 new channels per community in the low 35/43 MHz band for paging in 1981. As of February, 1982, approximately 2,500 applications for the new channels had been filed. We are now preparing a computer study to determine exactly how many are mutually exclusive; at first glance, the number appears quite large. Many potential new entrants have filed for the low band channels.

Another variable may be applicants' response to a possible Commission decision in April, 1982, to allocate up to 40 new paging channels in the 900 MHz band. If the Commission decides to allocate these channels, many of the applicants for low band channels are expected to switch to the 900 MHz channels, thereby removing many cases of mutual exclusivity in the low band. The Common Carrier Bureau staff is expected to recommend new procedures designed to avoid mutual exclusivity at the 900 MHz band.

The Mobile Services Division of the Common Carrier Bureau cannot now dedicate staff to processing mutually exclusive paging applications in "paper" hearings, as has been recommended for low power television. Neither can the cases be heard immediately by the administrative law judges, because these judges will be hearing designated applications for cellular radio service on an expedited basis beginning in the Fall. Therefore, significant delay can be expected in resolving mutually exclusive paging applications. On the bright side, carriers proposing paging service have in the past settled mutually exclusive cases 90% of the time after their applications have been set for hearing.

QUESTION: There has been some increased interest in reducing the size of a number of independent commissions and boards lately. If the Commission were reduced from seven to five members, what savings would be achieved?

ANSWER: It is estimated that the Commission would save approximately $492,000 if the number of Commissioners was reduced from 7 to 5. This estimate includes salaries for two Commissioners and their staffs as well as overhead costs.

QUESTION: Cuba has announced that it will jam U.S. Government broadcasts should Radio Marti be established. It has been estimated that as many as 200 Radio Stations in 32 States could be adversely affected should this occur. To what extent was the FCC consulted in the decision to assign a frequency to Radio Marti? What is the extent of the FCC's involvement in this issue?

ANSWER: The FCC was consulted regarding the appropriate frequency assigned to Radio Marti, in accordance with established practice of frequency coordination between the Executive Branch and our agency. We performed a frequency search in order to identify those frequencies likely to minimize potential interference to U.S. broadcasters. The frequency of 1040 KHz was identified by the Executive Branch for possible use for Radio Marti. The FCC did not and does not participate in any decisions concerning the establishment of Radio Marti.

QUESTION: The Commission develops technical standards for equipment used in various radio services. Yet, the staff of this program is to be reduced by 50 percent. What impact will this reduction have on this program?

ANSWER: The staff of the Authorization and Standards Division will indeed be reduced by 50 percent. However, the reductions will occur only in the Equipment Authorization Branch, the Applications Examining Branch and the Instrumentation Branch. No reductions in staff are planned for the Technical Standards Branch. Therefore, reductions in the staff of the Authorization and Standards Division will have no impact on the technical standards program.

QUESTION: In light of the rather alarming increase which you note in broadcast complaints and inquiries on page 39, how can you expect to effectively respond to them with a 63 percent reduction in enforcement staff in FY 1983?

ANSWER: Most of the increase in broadcast complaints and inquiries is attributable to letter writing campaigns on morality issues that are beyond the purview of the Commission and that are readily dealt with through form letters. Simplification of Commission rules and regulations allows for a streamlined education and enforcement program. It has long been Commission policy to encourage the public to undertake dialogues with broadcasters with whom they have complaints prior to seeking Commission intervention. By limiting Commission action to those alleged violations with potentially substantial adverse impact on the public, while continuing to foster public-licensee dialogue, we believe that we can continue to respond effectively to complaints and inquiries with reduced staffing.

QUESTION: What studies or tests have been done to support the change from a pre-marketing to a post-marketing equipment approval system? Is this change being proposed simply as a way to reduce resources or are there other reasons to support it?

If this change results in increased interference, as you note is possible, won't FCC be called upon to respond to interference complaints and respond to problems? Isn't it possible that the resources needed to carry out such activities could offset the savings in resources which will be achieved from changing to a post-market orientation? What spot checking capability do you have in this area? What effect will the reduction in field operations resources have on your ability to perform spot checking?

ANSWER: The trend to a post-marketing approach began several years ago with computing equipment well in advance of budgetary exigencies. Plans have been underway for some time to further extend the post-marketing concept. It is fortuitous that post-market equipment authorization is also less costly than the present pre-market approach. Our laboratory personnel's years of experience in handling equipment authorizations was used as the basis for deciding what equipment would be placed in a post-marketing program. It has not been necessary, therefore, to conduct special tests or studies to confirm our decision.

There will, of course, be somewhat more interference risk associated with post-marketing authorization. It is our intention to maintain a small group of engineers to spot check and otherwise monitor any post-marketing program. On balance it seems reasonable to assume that some increased interference will result from this program and that more interference complaints will be sent to the Commission. Resolving these complaints will be difficult to handle with a reduction in Field Office and Science and Technology resources, and it must be anticipated that many such complaints will in fact go unresolved.

QUESTION: What will be the impact on spectrum management if the FY 1983 manpower losses cannot be alleviated by using ADP support?

ANSWER: The use of ADP equipment in the spectrum management area can be of assistance in the examination of frequency applications, technical cross examination against existing assignments, and maintenance of assignment records and status of experimental applications. To a limited extent, ADP is presently used in the maintenance of the non-government Master Frequency File. Examination of assignments for impact on existing operations is largely performed manually.

Additionally ADP techniques can be used to process the workload more efficiently, resulting in some resource savings. A reduction in our personnel ceiling for FY 1983 will result in the deferral of some new starts and upgrades of existing systems. Reasonable backlogs can, of course, be tolerated for a period of time. The entities impacted would include Department of Defense agencies. Approximately 60% of the 5400 frequency assignments processed monthly involve these agencies. Extended delays in coordinating frequencies could retard the development, implementation and/or operation of military communications and electronic systems. Inordinate delays may also adversely affect federal telecommunications systems operated by non-military agencies, as well as requirements of the civil sector administered by the FCC. Extensive backlogs in the processing of experimental applications would also delay the development of new telecommunications technologies. We expect to minimize the impact of this reduction by assigning a higher priority to these efforts in relation to other automation efforts.

QUESTION: How many staff years do you expect to devote to the fee refund effort in FY 1983? When will this activity be concluded? What efforts are underway to design a new fee system? What would be the resource impact on the Commission if a fee system was legislatively established as proposed in S. 821 or H. R. 3239?

ANSWER: Less than one workyear is expected to be devoted to the fee refund effort in FY 1983. By law, fee refund activities may not cease until six (6) years from the final court decision, or December 16, 1982. Efforts to design a new fee system have been suspended pending expected Congressional action. The resource impact on the Commission if the fee schedule in S. 821 is established would be approximately 33 positions and $500,000 per year. The resource impact of establishing a fee schedule if H. R. 3239 were passed would be greater. H. R. 3239 provides general authorizing language which requires the Commission to adopt a schedule of fees rather than providing a statutory schedule of fees as in S. 821.

QUESTION: You are requesting a total of $463,000 to purchase a minicomputer and other equipment for your Management Information Network. At a time when you are proposing an unpaid holiday of 2.6 days for employees - at a saving equivalent to the cost of this system - don't you think this expenditure is a luxury?

ANSWER: We view this as a long range investment in acquiring labor-saving office automation devices to be installed in the individual offices throughout the Commission. These remain the last work places to be automated. By providing these tools to the clerical and professional staffs, productivity will be significantly increased thereby off-setting projected personnel reductions in those areas. Interconnecting the individual offices in a network will facilitate the sharing and transfer of information among the staff elements through largely electronic, rather than paper documents. This will also greatly speed up the decision-making process among the professional staff in support of license application processing.

The network tools will include word processing, electronic transfer of messages and large documents, photo composition and electronic printing of final documents.

QUESTION: What is the status of the monitoring station in Anchorage? Is it still scheduled to close in 1982?

What is the estimated cost of keeping this station open in fiscal year 1983?

ANSWER: The monitoring station in Anchorage, Alaska is being kept open during FY 1982 in accordance with the instructions of the Committee. The estimated cost of keeping the station open in FY 1983 is approximately $235,000 in recurring costs, such as compensation, and approximately $910,000 in non-recurring costs, such as needed renovation. The entire $910,000 would be obligated in FY 1983, but approximately $450,000 would be outlayed in FY 1984.

QUESTION: The FY 1983 budget reduces the amount available for participation at international conferences and meetings. How will this cut affect FCC activities with regard to facilities planning, frequency spectrum, and international standards?

ANSWER: The projected reductions in international travel funds for FY 1983 will result in fewer employees attending the various international conferences. In the past, however, the Commission may at times have tended to send more employees than absolutely necessary to adequately represent United States interests. Therefore, we believe that even at a reduced level of participation the interests of the United States will in each case be satisfactorily represented.

QUESTION: If the Commission has to use reductions in force as indicated in the budget submission to meet the reduced FY 1983 funding level, what will be the impact of "bumping" on bureaus and offices?

ANSWER: A RIF is expected to result in substantial movement of employees between Bureaus and Offices. The complete impact cannot be determined until an analysis is completed on which positions will be eliminated and what are the retention rights of affected employees. Other than the former, an agency has little discretion on the operations of a RIF. It is an essentially mechanistic process prescribed by OPM in 5 CFR 351 under the authority of 5 U.S.C. 3501-3504 whose ultimate outcome is difficult to control.

QUESTION: How are travel reductions being spread among Bureaus and Offices? What is the impact on:

- *Common Carrier Bureau auditing, particularly in connection with Computer II?*
- *Participation in international conferences and meetings?*
- *Commissioner attendance at industry meetings and functions?*

ANSWER: The travel reductions have generally been made on a prorata basis across the Bureaus and Offices as follows:

Travel and Per Diem
(Dollars in 000s)

	1982 Est.	1983 Est.	Change
Commissioners	$ 57	$ 43	$ -14
Office of Managing Director	25	20	-5
Office of Admin. Law Judges	15	12	-3
Office of Science & Technology	110	80	-30
Office of General Counsel	13	10	-3
Field Operations Bureau	365	289	-76
Common Carrier Bureau	54	41	-13
Private Radio Bureau	68	52	-16
Broadcast Bureau	87	65	-22
Cable Television Bureau	13	10	-3
Review Board	1	1	--
Office of Plans and Policy	16	13	-3
Office of Public Affairs	15	12	-3
Recruiting Travel	--	--	--
Total	$ 839	$ 648	$ -191

With regard to the Common Carrier travel, the Common Carrier Bureau recently requested additional resources for the Computer II project from OMB. We were advised by OMB that any additional travel costs would have to be absorbed within the reduced travel amount. The Bureau decides how to spend its travel money based on the priority of the programs or projects to which the travel is related. The Computer II project is a very high priority project. Thus, travel requirements related to it will be given high funding priority. We will continue to conserve our funds by limiting travel only to high priority mission related travel and by limiting the number of travelers on any particular trip to the minimum requirement, preferably one per trip.

The allocation of international travel funds to the operating units of the Commission is based upon foreseen needs in each unit's area of responsibility. Recognizing that periodic changes will be necessary, given the fact that new requirements arise and some indentified requirements are altered, the overall international travel funds are allocated to the various bureaus and offices at the beginning of a fiscal year. The bureaus and offices prioritize their perceived requirements initially and periodically throughout the fiscal year. Requests for individual international trips are routed through the Assistant to the Chairman for International Telecommunications (ITCC) for review and comparison to the prioritized lists. The need for the trip and/or the level of Commission personnel participation in a given activity at a particular time is scrutinized at this point, taking into account the latest information available.

Since the Office of Science and Technology (OST) takes the lead in most international conferences and meetings, usually involving technical matters and spectrum management issues, its international travel allocation is normally higher than the other bureaus and offices. Occasionally, as occurred with the Region 2 AM Broadcasting Conference in Rio de Janeiro during the Fall of 1981, another bureau or office will take the lead in a conference or meeting due to its expertise or the unique subject matter involved and thus require reprogramming of international travel funds. In general, however, due to its activities and preparations with numerous conferences and meetings, OST's international travel allocation will reflect its higher level of activity. For example, in FY 1982, OST is involved in preparation for and/or participation in CCIR plenary and meetings, UNISPACE-82, ITU Region 2 Broadcast Satellite RARC (including panel of experts), ITU Mobile Services WARC (1983), PLENIPOT, the Space WARC, numerous bilaterals with Canada and Mexico on orbital and spectrum management matters, and various ITU related activities.

The actual allocation of international travel funds for FY 1982 and FY 1983 among the Commission's operational units (included in the above totals) is as follows:

	FY 1982	FY 1983
Commissioners	$ 23,000	$ 16,000
Broadcast Bureau	28,000	19,000
Common Carrier Bureau	18,000	12,000
Private Radio Bureau	21,000	15,000
Field Operations Bureau	1,000	1,000
Office of Science and Technology	74,000	52,000
Totals	$165,000	$115,000

There will be an impact on participation in international conferences and meetings, in that there probably will be fewer Commission personnel attending an individual conference or meeting. In certain instances, following review and analysis of the contextual situation of a given conference or meeting, actual Commission attendance may not occur at all. However, this does not mean that required Commission participation in preparatory phases and Commission input to official U. S. delegations will not occur.

Reductions in actual attendance at foreign conferences and meetings by Commission personnel will be accomplished through the coordinating and review functions of the ITCC (see above). Streamlining the use of resources, both manpower and travel funds, where parallel and/or duplicative efforts exist, should offset reductions. Where necessary, reprogramming of domestic travel funds and realloction of international travel funds among the bureaus and

offices can be accomplished. However, it must be stressed that reductions will not be accomplished at the expense of effective Commission participation in international conferences or meetings. U. S. interests, either private or governmental, will not be subordinated to the saving of minimal amounts of money. Should additional international manpower or travel funds eventually prove to be necessary, the Commission will request additional resources from Congress.

Commissioner attendance at industry meetings and functions does not currently use a significant portion of their travel budget. The reductions in this area will have very little effect on this type of travel.

QUESTION: Won't the elimination of enforcement staff essentially wipe-out your cable EEO program? Is this a conscious policy decision which has been made by the Commission? If so, do you propose to make or have you made rule changes in this area?

ANSWER: Because rules in the EEO area are not self-enforcing in their present form, it was anticipated in the budget process that elimination of this staff would be followed up with changes in the applicable rules. The public notice and comment process required by the Administrative Procedures Act would have to take place before this occurred. This process has not yet commenced. Another alternative that is being considered would be to assign this function, perhaps with some changes, to the EEO staff in the Broadcast Bureau.

QUESTION: What affect will the reduction in cable television monitoring have on cable service? To what extent will that reduce the Commission's ability to deal with cable leakage problems?

ANSWER: Absolute priority will be given in the field to actual aeronautical interference from cable systems because of the direct effect on safety of life. Therefore, no major impact on these types of problems is expected. Reductions in the monitoring program conducted by the Field Operations Bureau will have some adverse effect upon our ability to conduct routine inspections to insure that cable operators are operating their systems in compliance with the Commission's technical rules, including signal leakage. The Field Operations Bureau is also used for gathering the necessary technical evidence that is used in aeronautical (signal leakage) enforcement proceedings. Reductions in on-site inspection capability could have an adverse effect on the perceived efficacy of our enforcement program. This can be remedied by other measures as, for example, the imposition of more severe penalties in those situations where rule violations are uncovered.

QUESTION: Although your common carrier activity shows a net increase of 15 positions for FY 1983, the work years decrease by 12. Please explain this apparent dichotomy.

ANSWER: During the past several fiscal years the Common Carrier Activity and primarily the Common Carrier Bureau has implemented successive prorata reductions in its authorized positions and thus, to the number of workyears associated with those positions. As the charts on Page 46 and Page 47 indicate, in the period from FY 1981 to FY 1982, the Bureau absorbed a 20 position reduction. That reduction will be accomplished by attrition. Since attrition does not occur all at once but over a period of time, the reductions in workyears do not occur as quickly as the reduction in year-end authorized positions. You will notice that for the period FY 1981 and FY 1982, the number of workyears far exceeds the number of positions. This illustrates the long period of time required to absorb position reductions that started prior to FY 1981.

At the end of FY 1982, the Common Carrier Activity is estimated to have 295 Full-Time Permanent positions. This is the base upon which FY 1983 is built. On December 9, 1981, the Commission approved an FY 1983 budget reduction of four positions in the Common Carrier Bureau and a reduction of two positions to the Information Management support of the Common Carrier Activity. This reduction was part of the overall Agency Reduction-In-Force of 296 positions. The FY 1983 Budget includes twenty-one additional Common Carrier positions for work on Computer II, USOA and Depreciation Rates projects. These changes, when added to the base of 295 positions, total 310 Full-Time Permanent positions, a net increase of fifteen positions over FY 1982.

The FY 1982 estimate for Common Carrier Activity workyears is 315. This is twenty workyears over the FY 1982 end-of-year Full-Time Permanent position ceiling. This is due to attrition occuring over the course of the fiscal year. The base workyears for FY 1983 is estimated at 289. This assumes that after the Reduction-In-Force and elimination of all other than Full-Time Permanent employees, the total workyears are equal to the total positions authorized (295 positions minus six positions). The base of 289 is then increased by one workyear for overtime and sixteen workyears for the twenty-one additional positions requested in FY 1983. The twenty-one additional positions were lapsed by 25%. The Common Carrier Activity's workyear total of 306 is then offset by a decrease of three workyears due to the proposed FY 1983 furlough of 2.6 days. This results in an FY 1983 total of 303 workyears, a net decrease of twelve from FY 1982.

QUESTION: In FY 1983 it appears that your audit activities will be greatly expanded beyond that which has been undertaken in previous years. How much travel money has been assigned to this area? What accounting and audit activities will be eliminated to allow for this expanded audit work -- since presumably the seven additional persons assigned to this area will be used on the Uniform System of Accounts revision?

ANSWER: No new travel funds were approved for our audit activities. However, because of the importance of these activities to the success of our overall program, travel funds that have been budgeted to support other required activities will be reallocated to the audit area as needed. Furthermore, in an effort to minimize the need for audit-related travel, steps are being taken to ensure that required financial and operating data together with corresponding support data will be made available, when possible, in corporate offices located within the commuting areas of our existing staff facilities.

To allow for our expanded audit work and to enable the audit staff to respond to other Commission investigatory requirements, there will be, at least temporarily, a deferral of routine compliance examinations and other on-site verification activities. While this will necessarily create a backlog in these areas, we are looking to the Computer II Implementation Task Force to provide potential relief through the development of computer-assisted verification and investigatory techniques which can be applied to the entire spectrum of common carrier reporting. Also, the Computer II Implementation Task Force has acquired three audit positions in its own right and will thus be able to provide additional audit support in areas related to its primary responsibilities.

Finally, of the seven additional positions requested for the revision of the Uniform System of Accounts, the Bureau has proposed the assignment of one to the Audits Branch.

QUESTION: The Common Carrier Bureau has been working for the last several years on redesigning its regulatory efforts to more effectively tailor the controls applied to carriers with and without market power. What is the present status of this effort and what resource savings have been or will be achieved from it?

ANSWER: The primary Commission proceeding intended to tailor the controls applied to carriers with and without market power is the ongoing Competitive Carrier Rulemaking, CC Docket No. 79-252. Under Phase I, which became

effective November 28, 1980, the Commission established dominant and non-dominant carrier classifications. As a result of this, the licensing and tariffing obligations for non-dominant carriers were substantially reduced. The Commission now grants initial certification to non-dominant carriers for the entire continental United States without a complex showing of public interest, convenience and necessity. Non-dominant carriers now add circuits without prior authorization, so long as they file semiannual reports summarizing the additions made. These carriers may also discontinue service without complex showings. The reduced certification procedures have resulted in fewer petitions to deny, and have enabled staff to reduce their backlog by 30%.

Tariffs filed by non-dominant carriers can become effective on 14 days notice, as opposed to a maximum 90 days notice for dominant carriers. No supporting economic data is required. In addition, petitions against these tariff filings must overcome a presumption that the filings are lawful. This has resulted in fewer petitions to suspend and, therefore, less staff time expended on non-dominant carrier tariffs.

Phase II of this docket will refine the dominant/non-dominant classification previously established and consider additional deregulatory options. This could result in some carriers being freed from all regulatory restraints and others being made eligible for reduced regulation. Should this occur, staff activity will be redirected to other pressing tasks and the further reduction of certification backlogs. We expect to conclude substantial portions of Phase II by the summer of 1982.

QUESTION: Why is $1.5 million in program assistance needed to value embedded plant as part of the Common Carrier Bureau's Computer II decision: How will the services be used? Doesn't the Bureau have expertise in this area since the value of embedded plant must be considered when making adjustments in depreciation schedules?

ANSWER: In the Second Computer Inquiry, the Commission established the policy of detariffing new terminal equipment. The actual deregulation of AT&T's embedded terminal equipment, involving investment of more than $20 billion, was temporarily deferred so that a fair value for this equipment could be established prior to its transfer to a separate subsidiary. (This transfer will also include related land, buildings, vehicles and other peripheral equipment.) It is imperative that the value assigned to these assests be properly and equitably determined.

The funds we have requested will be used to hire consultants to aid in establishing an estimated fair value for the assets which will be transferred to the non-regulated subsidiary. These studies will be used by the Commission to ensure that ratepayers are not subsidizing the establishment of this subsidiary.

While it is true that the Bureau does have extensive expertise in the prescription of depreciation rates, such prescription does not contemplate the "fair value", or market value, of property, but is concerned primarily with the depreciable lives of assets recorded at original cost. Establishing fair value is an appraisal activity with which the depreciation rates staff has little experience.

QUESTION: We understand that the Commission has considered requesting additional staff for cellular land mobile licensing, the ITT rate proceeding, and for international reciprocity enforcement within the common carrier activity, however, it appears that these staff are not included in the present request. How would these staff have been used?

ANSWER: The Commission had considered requesting additional positions for mobile licensing, and ITT rate proceeding and for international reciprocity enforcement. In the Mobile Services, the additional resources were for the

applications and licensing process for new cellular mobile and paging services.

1. Mobile Services Requirements, including cellular. We required four positions for the Mobile Services staff to process applications resulting from implementation of cellular, 900 MHz and 35 MHz paging (two GS-13 engineers, one GS-13 attorney and one GS-6 applications examiner). Four additional positions (two GS-13 attorneys and two GS-13 engineers) would be required in the Office of Administrative Law Judges to help the judges conduct the hearings on the cellular applications in an expedited manner. In total, eight positions would be needed. We anticipate that the additional workload will continue into future years.

The rapid disposition of the applications for cellular, 900 MHz, 35 MHz and the control frequencies, will stimulate the growth of Common Carrier mobile industry, increasing competition and encouraging innovation in equipment design by manufacturers as a result of a growing market. This will enable the industry to serve the public in an expeditious and efficient manner.

The mobile telephone industry has undergone substantial growth in recent years, with about 177,000 units estimated in service in 1981. As with paging, frequencies in many areas are exhausted. Potential customers are unable to receive service and existing customers receive poor quality service, including high blocking rates which result in customers having to dial several times before a frequency is available to complete their calls. Because of this congestion callers sometimes have to abandon their calls.

Cellular service has been designed to relieve this congestion through new, spectrum efficient technology. Under conventional mobile technology, the saturation point for mobile systems is very low. In New York City, for example, the wireline carrier uses only 12 channels, permitting only 12 radio-telephone conversations to take place simultaneously, in turn requiring the total number of subscribers to be limited to a few hundred. With cellular technology, thousands of conversations could be accommodated simultaneously, depending upon the cellular scheme adopted. In May 1981, the Commission adopted rules to implement new cellular systems and that decision was affirmed on reconsideration. Many potential applicants are currently planning their system proposals. Trade press articles estimate that "cellular" will create a market for more than a million and half automobile telephones by 1990 and close to $3 billion a year in service revenues.

The paging industry, which is composed primarily of many small independent, local business enterprises, has a current annual growth rate of about 25% a year. Annual gross revenues in 1981 from radio common carrier paging service and equipment rentals were estimated to be $260 million, according to Telocator, the radio common carrier trade association. Frost & Sullivan, in a 1978 study, estimated that the number of pagers in operation grew from 483,000 in 1975 to 806,000 in 1977, and projected a total of 3,389,000 pagers in use by 1985. Currently, Telocator estimates that there are 1,300,000 pagers in service. Because of this rapid growth, paging frequencies in many areas are exhausted; in other areas, many applicants vie for the few remaining frequencies.

The 35 MHz allocation, Docket 80-189, makes 20 additional frequencies available for use, depending on the present usage and skip interference potential in any given area. The staff already has applications for about 2500 facilities on file requiring use of these frequencies. The 900 MHz allocation, Docket 80-183, makes an additional 40 frequencies available. Without the 35 MHz and 900 MHz paging frequencies, the public in many areas will suffer either the loss of additional service or a serious decline in existing services. It is also very likely that the public will be deprived of new types of paging services, as new competitors are unable to enter markets, and existing carriers decide not to offer new paging services, such as tone-plus-voice. Finally, a less direct, but serious result to the public will be lost energy savings and lost business productivity due to unnecessary vehicular travel which could have been avoided through effective paging communications.

The Mobile Services Division which will process applications for these services has a backlog of applications for facilities. In the FY 1982 line of the FY 1983 Congressional Budget Estimates, assuming applications for new services and a staff of 34, we estimated that the backlog would rise to 6,666. In making this estimate, the staff anticipated that 200 cellular applications would be filed per year.

Because of the complexity of the applications, engineers are used to review technical parameters of the applications. Engineers use a computer in the assignment of frequencies. Clerical support is used to enter data into the computer record, to maintain files and to grant applications. It has been our experience that 15% to 20% of all major applications are legally contested either by pleadings or by mutual exclusivity. Each of these contested cases also requires that an attorney process the application and the matters raised therein, in addition to the normal engineering review and clerical support.

In addition to a past shortage of frequencies for paging, there is a shortage of control frequencies assigned for paging. Thus, wireline control links are being used. However, this method is costly and involves technical problems. Control frequencies will be essential for the new paging frequencies because these frequencies need multiple transmitting sites to ensure reliable service. Thus, it is imperative to allocate additional control frequencies for extended area paging. Recently we adopted Docket 79-18, which allocates the additional control frequencies. We estimate that this action will result in over 600 applications for control frequencies for FY 82, FY 83 and FY 84 and approximately 200 applications per year after that.

The Commission realizes the importance of processing applications for new services. To this end, we have re-allocated our personnel and assigned five more individuals to the Mobile Services Division. We are also planning to provide additional staff for the Office of Administrative Law Judges. Further, the Common Carrier Bureau and the office of the Managing Director are searching for ways to speed the applications process through the use of modern data processing techniques and administrative improvements.

2. IT&T rate proceeding. The Commission sees a value in investigating IT&T's rate of return. In the absence of a thorough investigation of rate of return, rate base and operating expenses, the International Record Carrier (IRC) industry is subject to routine facilities authorizations and perfunctory reporting requirements, with virtually no comprehensive public interest criteria imposed to measure performance. Because the Commission has had no IRC rate case since 1958, it is possible that both the staff and interested parties will raise questions concerning ITTWC's rate base and expenses including issues concerning the relationships between these items and ITTWC's rate of return. These would require an evidentiary hearing for resolution.

It may be possible to prioritize the issues and deal with them one at a time either in a hearing context or some other context. On the other hand, since we need better information generally to permit adequate rate regulation, it would be useful to review ITTWC's tariff support vigorously and comprehensively.

To conduct a comprehensive investigation of rate base and expenses in a rate proceeding, the following is the minimum additional requirement. Ten additional positions -- two GS-13 economists, two GS-13 accountants with auditing experience, one GS-13 engineer familiar with plant and equipment costs, one computer specialist GS-12, two GS-13 attorneys, one GS-9 paralegal and one GS-6 secretary. In addition, the Commission would require a tax consultant for approximately $100,000, a financial consultant for approximately $100,000, an equity capital expert for approximately $250,000 and $300,000 for auditors totalling $1,000,000. This estimate of resources does not include resources needed to review costs on a service by service basis.

A large scale investigation of IT&T's rate of return would be costly. The Common Carrier Bureau has been pursuing a smaller scale investigation of IT&T's rate of return using our existing staff. More importantly, various

events in international telecommunications may lead to an industry structure where traditional regulatory procedures may be unnecessary. Among these are the re-entry of Western Union to international communications, interconnection of telecommunications systems, and a Congressional mandate to the FCC to encourage international competition with the Record Carrier Competition Act of 1981. As competition increases and the market identifies prices with costs, the need for detailed regulatory oversight decreases.

3. International reciprocity. The Commission staff not only considered additional resources in the Common Carrier Bureau to conduct the economic and legal analyses required, but actually included them in a supplemental budget proposed draft in the fall of 1981 along with additional resources for implementation of Computer II and the Uniform System of Accounts (USOA). While the latter two items received favorable endorsement, the additional staff for reciprocity studies activity did not.

The two additional positions (an attorney and an economist) in the Common Carrier Bureau would have been used to assess the differences in U.S. and foreign facilities preferences and to develop approaches and policies to provide workable resolutions of those differences which would serve the interests of U.S. carriers and telecommunications users. Such assessment was deemed necessary because of the growing potential for adverse effects on the positions of the U.S. in international trade in the rapidly expanding telecommunications services and telecommunications-related or dependent markets. This potential had become sufficiently great to require the Commission to consider these factors as a part of its public interest determinations to the extent permitted under existing law. It appeared appropriate that the Commission determine: (1) on a case by case basis, the degree to which the opportunity for U.S. entry into the relevant foreign market is essentially equivalent to the opportunity for foreign entry into the U.S. market; and (2) the instances in which existing law permits it to impose reciprocal terms and conditions on foreign entry or to take other actions which would aid U.S. entry into the relevant foreign markets.

Notwithstanding the fact that there were no additional resources committed to new reciprocity activities, the underlying bases for attention to this area still exist. Consequently, the International Telecommunications Coordinating Committee an intra-agency group composed of the heads of Bureaus and Offices within the Commission) has established an intra-agency working group to look into the subject of reciprocity. This working group draws its membership from the breadth of the Commission and is looking at reciprocity as it pertains to telecommunications generally, including: common carrier issues; reciprocal licensing agreements with other administrations; interference; spectrum sharing, usage and efficiency; and technical assistance. Additionally, this group is looking at current Commission authority regarding reciprocity and potential authority under the various Congressional proposals pending and expected. The work of this group will enable the various operating units of the Commission and the individual Commissioners to better understand this important concept, its implications, and to be in a position to implement any new or modified authority which the Commission may receive.

QUESTION: Given the reduction in mobile and fixed monitoring capabilities which are projected in FY 1983, what delays will you experience in responding to requests for monitoring action? How will this affect, if at all, safety of life and property?

ANSWER: Mobile monitoring, which services the short range UHF-VHF bands used by land mobile two-way such as taxicabs, police, motor carriers, etc., will be reduced approximately fifty percent (50%). We will still be committed to responding to all safety and non-safety requests for monitoring action in two-way services. However, fewer monitoring vehicles and personnel for this program mean delays in responding, and more requests for assistance in any given area will have to accumulate before a trip can be scheduled to work on problems. The vehicles/personnel remaining will be

covering a larger area (approximately double in size), and population. Mobile monitoring trips will be prioritized to respond first to safety of life and property and second to some combination of factors such as number of individual requests, and ability to group a number of requests into a single trip. Those requesting assistance should anticipate a delay, which for individual, non-life or property-threatening cases could be several months.

The cut in fixed monitoring should not result in delays of more than 8 to 10 hours, depending on the time of day a request for assistance, or an interference complaint, is received.

QUESTION: What effect do you expect the FY 1983 reduction in monitoring to have on rule compliance? What effect is this likely to have on service quality and reliability?

ANSWER: There will be a drop in the number of signals that we observe and measure. This may have some long term effect in a generally reduced rule compliance, service, quality and radio service reliability. Increased emphasis will be placed on monitoring and enforcement to actively arbitrate and resolve problems. Some increase in on the scene activity will also be necessary to attempt to preserve overall service quality and reliability.

QUESTION: You indicate that you are eliminating the policy development and strategic planning element for private radio services. How many people have been involved in this area? With what results? Will the elimination of this effort have an adverse effect on the introduction of new radio services? Similarly, will the reduction in the rulemaking area slow the pace of deregulatory efforts in private radio which could, in turn, effect future resource needs?

ANSWER: The Policy Development Division is responsible for analyzing major policy issues, performing long range policy and planning studies on existing and proposed radio services and technology, legislative and deregulation analyses and evaluation studies of policies related to functions. In FY 1981 the Division had a staff of 10 persons, 8 professional and 2 clerical. Three major studies were completed and released to the public: The Future of Digital Technology in the Private Radio Services - 8/81; Public Coast Stations in the Marine Communications Services - 8/81; Possible State Roles in the Public Safety Radio Services - 7/81. Planning activities for the introduction of Narrowband Technology, several smaller studies, including a CB delicensing study, and legislative analyses were also performed. In FY 1982 with a staff of nine, two long range studies have been initiated: Future Land Mobile Telecommunications Requirements; Microwave Policy Licensing Study. Other activities include follow on efforts on narrowband technology, short term studies and legislative analysis. As indicated, the Division will be eliminated and the staff will be reduced to 4, 3 professionals and one clerical. The remaining staff will concentrate on concluding the active studies and performing short-term policy, planning and legislation activities. The impact of eliminating the division is a significantly reduced capability to perform policy development and long-range strategic planning for radio services, new technologies and regulatory alternatives in an analytical, comprehensive and planned way. However, in the past the private sector has been quite instrumental in prompting policy reexamination by the filing of petitions for rulemaking. We believe that we can rely on private parties to highlight important new service needs by the petition for rulemaking process.

The reduction of workyears for the rulemaking area will not impair the ability of the staff to initiate private land mobile radio deregulatory rulemakings or to respond to petitions for private land mobile radio rulemakings from the

public. The reductions have an impact in the aviation, marine, and personal radio services. The available workyears in these areas will be devoted to responding to petitions for rulemakings from the public and working on activities involving previously docketed proceedings rather than working on staff initiated rulemakings. Since we do not expect the reduction of staff initiated rulemakings to have an impact on the number of petitions for rulemakings we receive from the public, we do not anticipate greater resource needs in the future.

QUESTION: You predict dire consequences from the reduction of staff in the private radio service authorization area. What steps might be taken to offset these consequences, such as delicensing of certain services, such as CB radio, establishing longer or indefinite license terms, or eliminating certain requirements for obtaining licenses? Also, to what extent would further automation help?

ANSWER: As seen in the chart below workyears in the authorization of service area have been steadily decreasing in recent fiscal years while the number of applications have been increasing.

AUTHORIZATION OF ERVICE PROGRAM

FISCAL YEAR	WORK YEARS	APPLICATIONS
1980	213 Actual	1,648,066 Actual
1981	205 Actual	1,712,222 Actual
1982	191 Estimate	1,741,600 Estimate
1983	161 Estimate	1,783,680 Estimate

Our ability to maintain our current speed of service in the face of declining workyears and the increasing number of applications received is possible only because of the improved efficiencies obtained from consolidating the Licensing Division in Gettysburg, PA, streamlining our procedures, and redesigning new automation programs for the Amateur and CB radio services. This accomplishment is even more remarkable in that during FY 1982 the Licensing Division was assigned the function of maintaining the Private Radio portion of the master frequency file at a cost of approximately 9 workyears.

We expect that further improvement is achievable through automation. Our automated aircraft and ship batch processing systems are over 16 years old and require complete redesign to take advantage of on-line technology. However, the most significant improvements can be achieved through development of an Automated Land Mobile Application Processing System (ALMAPS). While this processing is basically still a manual function, limited automation was implemented during FY 82 with extremely positive results. In January 1982, the automated frequency file was used to implement processing of land mobile renewals with the result that the Licensing Division was able to reduce its speed of service to the public from sixty (60) days to thirty (30) days while at the same time reducing its processing staff by 1.5 workyears. In April 1982, we implemented an Application In Process Tracking System (APTS) which will be used to answer public queries regarding the status of applications. The results to date look promising. The most advantageous efficiencies in processing, through the use of automation, are yet to be realized.

Full automation of Land Mobile would permit us to perform certain screening functions such as Canadian coordination and antenna clearance, replace many of the manual examination functions, print licenses, and update and maintain an accurate and timely data base. Replacement of our voluminous, labor-intensive manual license files with automated files is also achievable through automation. While the savings would be considerable, the exact savings cannot be predicted at this time.

With the improved efficiency in the licensing of CB, it is currently taking approximately 10-11 workyears to perform this function. If CB were delicensed, a 60% savings in workyears could be realized immediately. Due to the fact that equipment manufacturers pack application forms with the equipment, we could expect to continue to receive forms for several years.

The remaining 40% of the staff would be needed to either return these forms or handle inquiries from the applicants that would follow the failure to receive a license. There would, of course, be a savings realized in other resources such as postage, keystroking, contracting, equipment, etc.

Alternatively, establishing longer or indefinite license terms in all or selected services would reduce the number of renewals, but many licensees are already modifying their licenses during the course of the present 5 year term rather than renewing at the end of that term. A longer term would not affect the number of modifications thereby reducing the impact of the longer license term.

Further, a longer term would degrade our database through the failure to remove the licensees who have gone out of business and do not renew their license. This prevents the efficient re-use of the assigned frequency. We do plan to expand the use of temporary permits whenever possible in order to impro[illegible] service to the public.

QUESTION: What effect do you expect to result from the reduction in compliance actions in private radio? What are the benefits and costs of using forfeitures in lieu of revocations as an enforcement tool? What evidence do you have to support the link between educational and/or enforcement actions and rule compliance? Between rule compliance and interference problems?

ANSWER: The principal reductions will be in the Personal Radio Services--i.e., Citizens Band and Amateur. There may be an increase in rule violations in the Citizens Band Radio Service with possible spillover into other services.

The advantages of using forfeitures versus revocations are that forfeitures are more expeditious (can typically be accomplished within four months of violative conduct, whereas license revocation, especially those involving hearings, can go on for eight months to one year); forfeitures are handled by legal technicians with attorney guidance, whereas revocations are handled by attorneys and in the case of hearings, also involve an Administrative Law Judge; more forfeitures can be handled with the same expenditure of money, because they are less expensive than revocation proceedings.

One of the disadvantages of forfeitures versus revocations is that a licensee could possibly retain his license simply by paying a forfeiture. Also, there are typically some 20% to 30% of forfeitures closed as uncollectable.

Regarding the link between educational efforts and rule compliance, when we speak of educational efforts we mean not only information in reference to user technique, but more in the nature of publication of our enforcement activities. Where we can have a source of information as to current events and through educational efforts get publicity through access to effective media channels, we feel that this publicity magnifies the effect of our enforcement efforts.

An extensive study conducted in selected communities during six months of 1975 by the Commission's Field Operations Bureau found that traditional enforcement sanctions were an effective tool in achieving user compliance. We know from letters we have received, editorial opinions appearing in various publications and comments received from user association representatives that improvements are noted in measured levels of violations where the FCC has taken a publicized enforcement action against a licensee.

There are two kinds of interference: those involving deliberate acts of interference and those which result from faulty or modified equipment. We have user feedback that sanction actions initiated against deliberate interferers have resulted in improved conditions in the service concerned. Additionally, direct results can be seen in each individual case where field personnel have located the offending transmitter and sanction action has followed.

QUESTION: For your FY '82 appropriation, Senator Weicker and I directed you to maintain as a "priority" item the administration and enforcement of the political Broadcasting laws. However, your recent "Goals, Objectives, and Priorities" Report states that in 1982, your oversight of these laws will have a "C"--the lowest--priority. Why haven't you followed Congress' directive?

ANSWER: The Commission has asked Congress to repeal Section 315 of the Communications Act and the Fairness Doctrine. Until such time as the Congress acts upon the Commission's request, we have indicated on numerous occasions that we would enforce the law as it now exists. We intend to enforce the Fairness Doctrine and Section 315. In this regard, the Bureau recently hired two new attorneys and an additional secretary from within the Commission to replace personnel who either left the Commission or accepted other positions within the Commission. In its recent "Goals, Objectives and Priorities" Report, the Commission listed Fairness and Section 315 activities under its enforcement activities which were considered a lower priority than authorization of service or rulemaking activities. While the Bureau ranked its enforcement program as a lower priority than some other activities, we have and will continue to devote the resources to the specific areas of Fairness and Section 315 to carry out our Congressional mandate.

QUESTION: I think we would all agree that as a general rule the Commission should complete a proceeding--particularly a "priority" proceeding--within, at most, two years. There is a case before the Commission--Environmental Defense Fund vs. KRON-TV--right now regarding the Fairness Doctrine that has taken well over two years so far. When will the Commission complete this matter?

ANSWER: The case cited, Environmental Defense Fund vs. KRON-TV et al. is presently being reviewed in the office of the Bureau Chief. It is expected to be presented to the full Commission in late May or early June. We agree that two years is an inordinately long period of time within which to complete a Fairness proceeding. However, it should be noted that in this particular case, the issues are complex and two staff attorneys working on the case either left the Commission or accepted positions elsewhere in the Commission. As a significant part of its MBO objectives, the Bureau has established a goal of disposing of 99 percent of fairness and political broadcasting complaints within 90 days of the filing of the last pleading. The Bureau has handled all but the most complex cases within 90 days.

QUESTION: Is the Commission still considering moving the administration and enforcement of the political broadcasting laws from the Broadcast Bureau to the General Counsel's Office?

ANSWER: The Broadcast Bureau suggested informally to the Commissioners that there may be economies of scale by combining the Bureau's Fairness and Political Broadcast enforcement personnel with the oversight staff utilized by the General Counsel's Office to review fairness and political items. While no formal recommendation has been made, the Bureau is currently reviewing the feasibility of this proposal.

QUESTION: In your proposed budget for FY 1983, you state that you plan to reduce your administration and enforcement of the political broadcasting laws. While some might contend this is simply a reaction to budget restrictions, others might see this as a way to effectively weaken these laws since repeal is not now possible. Could you please set out your rationale for lessening oversight of these laws? In addition, could you please tell us what measures you will take to ensure that these laws are effectively enforced?

ANSWER: The Commission intends to maintain an effective enforcement program with respect to the fairness doctrine and the political broadcasting laws. As noted in answer to a previous question, we have maintained the staff employed in this effort by adding two attorneys and a clerical to replace staff who took other jobs. This effectively restored this unit to its FY 1982 staffing level.

If an increase in workload were to occur, some delays in disposing of cases would result. Even if this were to occur, however, we will allocate our resources to assure that the time sensitive cases continue to be disposed of in a timely fashion. We would attempt to limit the backlog only to those cases that are not time-sensitive in nature.

QUESTION: During the tenure of your predecessors, the Commission initiated numerous deregulation rulemakings such as Radio Deregulation, the Competitive Carrier Rulemaking and the Second Computer Inquiry. During your tenure as Chairman, what rulemakings has the Commission started that would deregulate Commission requirements? Of these rulemakings, what is their status?

ANSWER: In the Second Computer Inquiry, the Commission established the policies and procedures which will ultimately lead to the deregulation of enhanced communications services and customer premises terminal equipment (CPE). Since the Final Decision in that proceeding, we have taken several significant steps towards our goal of a smooth implementation. First, the Commission affirmed its decision to employ a bifurcated approach to the deregulation of CPE. Under the adopted plan, all "new CPE" will be sold or leased on an unregulated basis as of January 1, 1983. "Embedded CPE" on the other hand, that is, equipment or inventory which is currently tariffed and subject to the jurisdictional separations process will be deregulated under a different timetable. With respect to this category of equipment, the Commission instituted a separate implementation proceeding in April 1982 to address issues of capital recovery and asset valuation, necessary accounting rules changes, the removal of embedded CPE investment from the separations process and a carrier's rate base, and alternative mechanisms by which the transition to an unregulated CPE environment may be achieved.

Other important steps which bear upon the implementation of the Second Computer Inquiry have also been taken. In February 1982, we adopted the so-called Popenoe Plan recommended by the Federal State Joint Board for phasing CPE out of the jurisdictional separations process. This plan, which will begin concurrently with the Commission's January 1, 1983 date for the detariffing of all new CPE and continue over a period of five years, was viewed as the most appropriate means of facilitating the implementation of CPE deregulation. Its phase-out feature should substantially alleviate concerns that the detariffing of CPE will result in a sudden and harmful shift of revenue requirements to the various state jurisdictions.

Further, we have established an interdisciplinary team to handle other aspects of the Second Computer Inquiry implementation process. This team is currently assessing AT&T's plans for capitalizing the new separate subsidiary for the provision of deregulated enhanced services and will eventually oversee the deregulation of embedded CPE.

Closely associated with the implementation of the Second Computer Inquiry is our action on January 21, 1982 prescribing accelerated depreciation methods for terminal equipment. These new depreciation methods will facilitate the sale, transfer or other disposition of embedded CPE by reducing the amount of underdepreciation. In combinatin with prescribing these new methods, the Commission issued a Further Notice of Inquiry on May 18, 1981, seeking comment on a proposal to deregulate the provision of inside wiring. Such deregulation would ensure more effectively the Commission's goal of placing inside wiring costs on the cost-causative customer and would result in the development of a large number of firms meeting diverse customer needs at competitive prices. The comment cycle on this proposal ended in August 1981 and Commission action should be forthcoming.

In addition to our efforts aimed at implementing the Second Computer Inquiry and certain related matters, the Commission has taken significant steps in other areas towards the creation of an unregulated competitive telecommunications marketplace. In the satellite area, for example, we issued a Notice of Proposed Rulemaking on November 18, 1981 (Second Generation Rulemaking) seeking comment on the technical feasibility of increasing domestic satellite capacity and the proper regulatory treatment for the authorization of new satellites. The comment period in this proceeding ended

in April 1982. In addition, comments have recently been received in a Notice of Proposed Rulemaking (released February 8, 1982) addressing the question of whether satellite transponders may be sold on a non-common carrier basis. The sale of transponders is a new method proposed by various domestic satellite carriers to market capacity privately to customers outside the requirements of Title II.

In another area, the Commission has recently initiated a Further Notice of Proposed Rulemaking, (released April 21, 1982) to consider the appropriate regulatory status of the international record carriers (IRCs) in their provision of domestic telex service. As a result of the Record Carrier Competition Act of 1981, the IRCs are now permitted to enter the previously off-limits domestic record market. In expanding the deregulatory scope of the Competitive Carrier Rulemaking, we invited comment on whether the IRCs should be considered non-dominant carriers in this market thereby according them the same streamlined entry/exit and tariff regulations applied to other non-dominant carriers. Comments on this proposal are expected in late May 1982.

Various other actions have been taken in our continuing efforts to reduce unnecessary regulatory burdens. On November 8, 1981, the Commission exempted rural areas from the telephone company/cable television cross-ownership rules. As a result, telephone companies may own cable systems in rural areas without seeking a waiver of our rules. Approximately 26.3 percent of the U.S. population resides in rural areas and the Commission anticipates that the recently adopted exemption will speed service to presently unserved rural areas. The Commission also has recently eliminated the requirement that applicants for certain frequencies in the Domestic Public Land Mobile Radio Service demonstrate a public need for the service proposed. As with the rural area exemption from cross-ownership rules, the Commission anticipates that this action will speed service to the public and reduce administrative burdens on the agency. In our attempt to remove unreasonable restrictions on the customer use of private line telecommunications services we are reexamining the provision in certain of AT&T's tariffs restricting the use of private line services to create competitive substitutes for the switched-voice pubic message services. In a Memorandum Opinion and Order and Notice of Proposed Rulemaking released February 4, 1982, we sought comment on whether these restrictions remain in the public interest in light of the changes in Commission policy since these restrictions were filed.

Also, in an effort to provide the American Telephone and Telegraph Company (AT&T) with the flexibility to respond to market demands and to establish a mechanism for ensuring that cross-subsidization between services does not take place, the Commission adopted an Interim Cost Allocation Manual (ICAM) on January 6, 1981. The ICAM is used for the allocation of costs by AT&T among the interstate services it offers or may offer in the future. AT&T followed the ICAM to develop its 1980 Central Submission, filed June 30, 1981, and indications are that substantial movement toward producing understandable and auditable information has been made. Informal working sessions open to all interested parties on improvements or alternatives to the ICAM are under way. Long range cost allocation considerations are expected to be initiated after these sessions conclude.

In the Private Radio Services, the following deregulatory rulemakings have been initiated:

Authorized multiple-licensing option and simplified filing and record-keeping requirements for cooperatively-sharing licensees. Action by FNPRM, Docket 18921, June 4, 1981. Report and Order finalizing proceeding adopted March 18, 1982.

Permitted temporary licensing for SMRS users and add-on users of multiple-licensed facilities operating at 800 MHz. Action by Report and Order, PR Docket 79-335, March 18, 1982.

Deletion of station log requirements in the Aviation Radio Service. Action by NPRM, GEN Docket 82-182, April 1, 1982. Reply comment period closes June 2, 1982.

Permit use of additional digital emissions in the Amateur Radio Service. Action by NPRM, PR Docket 81-699, October 1, 1981. Anticipate the Report and Order during the fourth quarter of FY 1982.

Deleted requirement that licensees in the Personal Radio Services possess a current copy of the rules. Action by Order, April 14, 1982.
Permit the use of automatic aviation reporting systems at airports. Action by NPRM, PR Docket 81-464, July 28, 1981. Report and Order finalizing proceeding adopted April 1, 1982.
Relaxing the ERP limitations on Amateur Radio Service repeaters. Action by NPRM, PR Docket 81-697, October 9, 1981. Anticipate the Report and Order during the fourth quarter of FY 1982.
Delete restrictions on the control of stations in beacon operation in the Amateur Radio Service. Action by NPRM, PR Docket 81-823, November 23, 1981. Anticipate the Report and Order during the first quarter of FY 1983.
Releasing 800 MHz reserve channels under a deregulatory framework. Includes flexible technical standards for emissions; relaxes regulatory restrictions on RF equipment manufacturers; removes rigid geographic separation requirements by allowing applicants to use the services of frequency coordination groups; removes delineation between trunked and conventional systems operation by letting market decide allocation between systems. Action by FNPRM, PR Docket 79-191, June 16, 1981. Anticipate the Report and Order during the last quarter of FY 1982.
Withdrew proposed 1974 rule to establish minimum performance standard for ship radio receivers. Action taken by Order, Docket 20074, February 11, 1982.
Permitted the licensing of non-profit corporations/associations in the Business and Special Industrial Radio Services. Action taken by NPRM, PR Docket 81-493, July 30, 1981. Report and Order finalizing the proceeding was adopted on January 28, 1982.
Elimination of separate licensing requirement for radar detectors in the Police and Local Government Radio Services. Action taken by NPRM, PR Docket 82-193, April 1, 1982. Anticipate the Report and Order during the first quarter of FY 1983.
Permit temporary licensing in the General Mobile Radio Service so that applicants can make immediate use of their radio facilities. Action taken by NPRM, PR Docket 82-184, April 1, 1982. Anticipate the Report and Order during the second quarter of FY 1983.
Deletion and/or simplification of various requirements in the General Mobile Radio Service. Action taken by NPRM, PR Docket 82-84, February 11, 1982. Reply comment period closes September 30, 1982.
Expansion of frequencies available for HF radiotelephony operation in the Amateur Radio Service. Action by NPRM, PR Docket 82-83, February 11, 1982. Reply comment period closes September 16, 1982.
Allowed all frequency-coordinated private land mobile radio services to employ digital voice communications system on a primary basis to insure communications privacy. Action by FNPRM, PR Docket 80-416, May 21, 1981. Report and Order finalizing the proceeding was adopted on March 18, 1982.
For private one-way paging systems at 900 MHz, proposed leaving designation of certain frequencies for particular modes of operation to the marketplace and proposed eliminating geographic separation requirements by permitting applicants to use the services of frequency coordination groups. Action by FNPRM, GEN Docket 80-183, March 18, 1982. Reply comment period closes May 24, 1982.
Eliminated the frequency measurement and regular check rule in the Amateur Radio Service. Action by Order April 1, 1982.
Eliminated the transmitter power supply rule in the Amateur Radio Service. Action by Order April 1, 1982.
Deleted obsolete requirements from Parts 81, 83 and 87. Action by Order February 5, 1982.
Extended the time allowed applicants to return novice class license examinations in the Amateur Radio Service. Action by Order April 14, 1982.

In the Broadcast services, the following deregulatory rulemakings have been initiated:
A Notice of Proposed Rule Making was released in July 1981 proposing to deregulate noncommercial radio and television. A Report and Order will be issued mid-year.
In January 1982, the Commission initiated a rule making proposing to allow noncommercial FM licensees to utilize their subcarriers for profit. A Report and Order will be released early this summer.
In December 1981, the Commission issued a Notice of Proposed Rule Making proposing to delete the "3-year" rule which requires broadcasters to hold a license for at least three years before a transfer of the license can occur. A Report and Order will be released this summer.

On March 11, 1982 the Commission adopted a Report and Order in BC Docket 80-190 to eliminate the annual financial reporting requirements (Form 324). This action was based on a Further Notice of Proposed Rulemaking adopted in September of 1981, although an initial notice had been issued the previous year.
On July 30, 1981 the Commission adopted a Notice of Proposed Rulemaking in BC Docket 81-496 suggesting the relaxation of ascertainment and program logging requirements for non-commercial radio and television licensees. Comments have been received and action is expected soon. A similar item for commercial television is in preparation.
Comments and reply comments have also been received in BC Docket 81-705, where a Notice of Proposed Rulemaking suggests eliminating the requirement for broadcasters to keep public files of letters received. A Further Notice of Proposed Rulemaking in BC Docket 21502 proposes substantial additional subscription television deregulation. Comments and Reply Comments have been received. Finally, in the area of reducing requirements on licensees and applicants, the Commission has instituted a Notice of Inquiry into the question of character qualifications (see General Docket 81-500). Reply comments have been received.

In the area of ownership restrictions, rulemakings are expected soon in the areas of broadcast-cable and network-cable restrictions. Following the release of a staff report, FCC Policy on Cable Ownership, in November 1981, a series of comments were received which are being analyzed as part of this process. Also, there is a Notice of Proposed Rulemaking in BC Docket 81-897, adopted December 17, 1981, which would eliminate the Commission's trafficking rule. Comments have been received and a staff recommendation is being prepared.

In the Science and Technology Activity, the following deregulatory rulemakings have been initiated:
On November 2, 1981, the Commission proposed a relaxation of Part 15 of its rules to permit expanded use of auditory training devices by the handicapped. A Report and Order is expected within the next few months.
On April 29, 1982, the Commission proposed notification of a new category of equipment authorization which, if adopted, would enable the Commission to greatly simplify the equipment authorization program and reduce the delays experienced by manufacturers seeking to market radio devices. The Commission is expected to consider a Report and Order in August.

QUESTION: During the tenures of your predecessors, the Commission initiated rulemakings to begin such new services as Low Power Television, VHF Drop-Ins, DBS, 900 MHz Paging, Cellular Radio, and the expansion of the MDS band. During your tenure as Chairman, what rulemakings proposing new services has the Commission started? Of these rulemakings, what is their status?

ANSWER: Up to now, this administration has concentrated on licensing new common carrier services. We have initiated (and in some instances, concluded) significant proceedings dealing with policies toward the use and licensing of new technologies. When I came to my positions as Chairman, there were many outstanding issues in the Cellular Radio, 900 MHz and 35 MHz paging and MDS proceedings. While these dockets were started under past administrations, tremendous volumes of work had to be finished before the public could benefit from them. We have now completed much of the work and are beginning to accept license applications for these services. The licensing of cellular and paging services are of the highest priority. We have reallocated our staff and assigned five more individuals to our Mobile Services Division to help with license processing. The MDS proceeding is still outstanding but we are pursuing a new use for the service -- the "wireless cable" network proposed by Microband Corporation.

The Commission is dedicated to the policy that the public should benefit from new services as quickly as possible and that the marketplace, not the government, should determine the success of new services. We will continue to move forward on existing proposals and rapidly but thoroughly review any new service proposals which may arise.

In October 1981, the Commission issued a Notice of Proposed Rule Making proposing to allow teletext transmissions by television stations in an open marketplace environment. The Report and Order will be issued this summer.

The Commission has expanded the subsidiary communications authority of FM broadcast stations to allow them to perform utility load management tasks on a subcarrier. (See Report and Order in BC Docket 81-352). Concurrently, a proceeding was initiated to allow AM stations to use their carriers for the same purpose. (See Notice of Proposed Rulemaking in BC Docket 81-896). Comments have been received on the proposal, and a staff recommendation will soon be presented to the Commission.

QUESTION: Given the public's clamor for new services, efficient use of the spectrum is essential. Has the Commission proposed any studies to determine how to make future spectrum use more efficient? How far along are any such studies?

ANSWERS: Our efforts to insure efficient use of the spectrum are directed primarily toward frequency allocation and assignment rather than the design of radio equipment which we believe is more appropriately conducted in the private sector. Studies of the efficiency of the current use of the spectrum involve determining whether more assignments can be made within existing frequency allocations and whether bands can be shared between services. Studies now underway in these areas include:

Construction of TV assignment computerized model which could be used to optimize TV station assignments. Due to be completed in May 1982.

Analysis of the impact of new technology on relaxation of the UHF "taboos". To be completed June 1983.

Inquiry into reducing satellite orbit spacing from 4° to 3° or 2° to increase the number of geostationary orbit slots. Due for completion October 1982.

An evaluation of an alternative land mobile technology, Amplitude Compandered Single-Side Band (ACSB), under field conditions. This technology might increase the number of available channels due to reduced channel size. Due to be completed October 1982.

Analyses of the impact of LPTV service on the sharing of Land Mobile Radio and TV allocations in the top 10 markets (part of the LPTV proceeding). To be completed August 1982.

Studies undertaken dealing with future use are directed toward making allocations to allow for efficient use of the presently lightly used higher frequencies. Continuing efforts in this area include close coordination with the Executive Branch on their use of the spectrum, including government/non-government sharing, and planning for future uses to anticipate problem areas. Current studies include:

Inquiry into the use of 17.7 to 40 GHz, Notice to be issued May 1982.

Alternative spectrum allocation/assignment techniques which would lead to greater spectrum efficiency with less government involvement. Working paper was completed in April 1982. Other projects on-going.

Analysis of new or alternative technologies. For example, Millimeter Wave Technology Report completed January 1982. Others are on-going, such as an Inquiry on Spread Spectrum Technology to be completed in 1983.

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QUESTION: There are a number of new services--reallocation of frequencies for MDS, 900 MHz Paging, VHF Drop-Ins, and DBS--that were first proposed in 1980 and are still awaiting Commission action. For each of these proposed services, could you please tell us: the person responsible for writing the order, other projects on which this person is working; the expected completion date; and where this proposal falls within the Commission's priorities and objectives. In addition, could you please explain why these proceedings have taken so long? In view of the record unemployment in the nation and the demonstrated demand for those new services, how many jobs are we not creating by moving ahead with the manufacturing and sales of the products attendant to those new services?

ANSWER: With respect to 900 MHz Paging, General Docket No. 80-183, the Mobile Services Division of the Common Carrier Bureau was primarily responsible for drafting the Commission's Report and Order. The Office of Science and Technology was also responsible for that part of the Report and Order which allocated the new frequencies. Various attorneys and engineers have worked on the project over the past two years. On April 29, 1982, the Commission adopted the Report and Order. The 900 MHz proceeding was carried on the Management By Objectives record of the Mobile Services Division as the 6th highest priority of 18 for FY 1982.

The Multipoint Distribution Service (MDS), unlike DBS, VHF Drop-In, and 900 MHz Cellular, is not a new service. It was created in 1974. MDS is allocated two 6 MHz channels in the 2150-2162 MHz band in the 50 largest metropolitan areas. In the rest of the country MDS is allocated one six MHz channel (2150-2156 MHz) and a 4 MHz channel (2156-2160). The 6 MHz channel primarily is used to distribute pay television to apartment complexes, motels and private homes. The 4 MHz channel is virtually unused.

In General Docket 80-112, initiated in 1980, the Commission proposed to reallocate the 2500-2690 MHz band for shared use by the MDS, the Instructional Television Fixed Service (ITFS), and the Private Operational Fixed Microwave Service (OFS). The 2500-2690 MHz band is presently shared by the ITFS (28 channels) and the OFS (3 channels). The proposal in General Docket 80-112 was to make a primary allocation of 11 channels to the ITFS and 10 each to the MDS and the OFS. The ITFS is used by educational institutions to distribute instructional programming that ranges from bilingual education for elementary school programs to highly specialized advanced engineering and medical courses.

Over five volumes of comments were filed in response to the Commission's proposed reallocation of the 2500-2690 MHz band. The vast majority of these comments were from members of the educational community opposing the reallocation proposal.

The Domestic Facilities Division of the Common Carrier Bureau is responsible for drafting the order in General Docket 80-112. In addition to this rulemaking the Division also is responsible for the preparation of the order in the companion proceeding in General Docket 80-113. This Notice of Proposed Rulemaking and Notice of Inquiry contains proposed new technical rules for

solving cochannel and adjacent channel electro-magnetic interference problems in the MDS. It also inquires into the suitability of applying the proposed rules to the 2300-2690 MHz band if the reallocation proposed in Docket 80-112 were to take place. Three volumes of comments were filed in response to this notice of Inquiry and Proposed Rulemaking, raising complex technical arguments on the suitability of each of the proposed new rules and the scientific analysis used to arrive at each of the rules.

The Division also is involved in the day-to-day interpretation and legal analysis of the existing MDS rules and the applicable part of the Communications Act. During the past two years a considerable amount of time has been spent dealing with problems that have arisen from the applicability of Section 605 of the Communications Act (47 U.S.C. 605) to the MDS. MDS is a service which is particularly vulnerable to what has been termed "pay-TV piracy." This problem is the subject of H.R. 4727. Staff of the Division assisted the Commission's General Counsel in the preparation of the comments submitted to Congress on H.R. 4727.

It is difficult to estimate the completion date of the proposed reallocation order. The Commission is now in the process of reviewing the whole regulatory scheme governing the over-the- air distribution of pay television. MDS is one of three methods being used to deliver pay TV in the country today. The other two are cable systems and subscription television. DBS, if authorized by the Commission, would be still another method. The Commission's staff is considering whether changes in our regulatory approach to these services should be made to recognize their common aspects. This could modify the initial proposal to reallocate the 2500-2690 MHz band to existing services. It should also be noted that on February 10, 1982, Microband Corporation of America, the largest MDS operator in the country, filed a three volume proposal with the Commission as additional comments in the MDS rulemaking proceedings. Microband proposes the creation of a "wireless cable" system. The public has been given time to comment on the proposal. This procedure may further delay the final resolution of the reallocation issues.

The MDS rulemakings are the 13th highest priority for the Domestic Facilities Division. Incidentally, that Division had 70 employees when the rulemaking began. Today, it has 53. The Division processes approximately 10,000 applications annually. This processing is the Division's highest priority.

The Notice of Proposed Rule Making proposing VHF drop-ins (BC Docket 80-499) was released October 21, 1980. The closing day for reply comments was June 15, 1981. Roger Holberg is the Broadcast Bureau's staff attorney who will be preparing the Report and Order. He was assigned to the proceeding in January of 1981. He was handling the radio deregulation proceeding at that time. The Report and Order in radio deregulation was released in February 1981. The radio deregulation reconsideration Order was released in August, 1981. Mr. Holberg has recently completed preparation of an order addressing reconsideration petitions that were filed concerning the Commission's decision to waive its rules and drop-in four specific VHF stations. Mr. Holberg is now working full time on the VHF drop-in Report and Order. At this time, it is anticipated that the Report and Order will be considered by the Commission during the 4th quarter of FY 1982.

Gordon Godfrey is the Broadcast Bureau's staff engineer assigned to assist Mr. Holberg in preparing the Report and Order in this proceeding. He is presently actively engaged in reviewing the engineering submissions in this proceeding. From May 1981 to April 26, 1982, Mr. Godfrey was involved as the Bureau's staff engineer in preparing the recently released Report and Order in low power television. Also, during this same time period, he was involved in reviewing the record and preparing a draft order regarding the FM/TV Channel 6 interference problem.

Florence Setzer and Bruce Franca are responsible for writing the order on DBS. Both of them are working essentially full time on DBS. We expect a Report and Order to be drafted in May 1982. This issue has a high priority within the Office of Plans and Policy, as indicated by the fact that two out of twelve professionals on the staff have been assigned to it full time. The

proceeding has taken as long as it has because we have received voluminous public comments (the docket now consists of 24 volumes) and because we have had to deal with unexpected license applications as well as with the issues in the rulemaking proceeding.

The Commission does not have an estimate at this time of the precise number of new VHF television stations that would be possible if it adopted the proposals regarding VHF drop-ins (BC Docket 80-499). Until the engineering study has been completed we will not be in a position to estimate the economic impact of this proceeding.

One of the DBS applicants, Satellite Television Corporation, estimates that construction and operation of its proposed DBS system will directly or indirectly support about 23,000 jobs at the peak and about 15,500 jobs in the long term. The FCC has nine applications on file, some for larger and some for smaller systems. Many of these jobs would be in manufacture and installation of receiving equipment and would not be duplicated by approval of additional applicants. Of course, the FCC can only permit applicants to go forward; whether the aggregate level of employment rises will depend on the economic environment, and ultimately on the nation's fiscal and monetary policies.

QUESTION: Seven months ago, NTIA filed a petition to increase the operating hours of daytime-only radio broadcasters. Comments were submitted in support of NTIA's petition last November. At what stage is this petition? When does the Commission anticipate issuing a Notice of Rulemaking? What sort of timetable has the Commission set to expedite this proceeding? Is the Commission considering implementing any of the proposed changes on an experimental basis, pending promulgation of formal rules?

ANSWER: The Broadcast Bureau is studying various alternatives to extend the operating hours of daytime broadcast stations. The proposals contained in the NTIA petition are included in these studies. A combined Notice of Proposed Rule Making and Notice of Inquiry concerning these various alternatives will be prepared for Commission consideration in the early part of the 4th quarter of FY 82. The FCC has already begun to study changes that may be required for existing international agreements that concern extension of operating hours for daytime stations and initial negotiations will begin with Canada during the 4th quarter of 1982. In this regard, recommendations are being solicited from the Industry Radio Advisory Committee. The Commission has not made plans to permit experimental operations during extended hours although the proposal has not been dismissed and will be kept open as an option.

QUESTION: How much money would be saved if the number of Commissioners at the FCC were reduced from 7 to 5?

ANSWER: It is estimated that the Commission would save pproximately $492,000 if the number of Commissioners was reduced from 7 to 5. This estimate includes salaries for two Commissioners and their staffs as well as overhead costs.

QUESTION: How much would it cost the Commission to hold one of its en banc sessions outside the Washington area, say in Charleston, South Carolina or Hartford, Connecticut?

ANSWER: The greatest cost factor involved with holding en banc meetings outside the Washington area is the variable cost factor of travel distance. The Office of Public Affairs figured the cost of sending seven commissioners and three staff persons to two different cities by adding the cost of roundtrip coach-class airfare, city per diem, and $20 per person for miscellaneous expenses. An additional $400 was added for the cost of providing a record of the proceedings. It was anticipated that one staff person would arrive one day beforehand to make sure that the facilities were in order and that a facility could be arranged for free.

Hartford, CN	$2,403.00
Charleston, SC	2,591.00

QUESTION: Why did the Commission send 17 people to the recent NAB Convention in Dallas? How many people were sent to the 1980 and 1981 NAB Conventions?

ANSWER: In April 1982, 16 Commission employees attended the NAB convention in Dallas to participate in conference panels and workshops and to acquire information for the Commission concerning the latest technological and industry advances. Because of the change in membership of the Commission all seven (7) Commissioners, including the Chairman, attended this years Convention. The NAB convention serves as a forum for the exchange of ideas between FCC staff and industry members. It is a mutual educational process for the communications industry, the communications bar, the general public and government agencies. It is the major television and radio conference of the year. The FCC sends employees to participate on panels to give the industry and the public the latest on FCC policy and legal issues. Of the sixteen FCC employees who attended NAB in 1982, including the seven Commissioners, fourteen participated in the conference as panel members or speakers. In 1981, nine (9) employees attended the NAB convention and fifteen attended in 1980.

QUESTION: In terms of priorities, do you think it is more important for the Commissioners to travel around the United States or for the Commission to process license applications more quickly? Is it more important for the Commissioners to travel or for the United States to ensure that it adequately prepares for and attends international telecommunications meetings?

ANSWER: Each of these matters is important, as has been recognized with Congress' approval of past budgets, including separate line items for Commissioners' travel. Because the Commissioners determine policy in the course of their executive duties under the Communications Act, we believe it is critical that the Commissioners thouroughly understand the industries they regulate or affect. It is also essential to strike a balance between resources devoted to Commissioners' travel and the Commission's applications processing programs. During a period of austerity, we believe that the FCC's FY 1983 Budget Estimates have accomplished this balance between priorities and resources.

QUESTION: How much of a reduction in information management/ADP resources will occur if your FY 1983 budget request is approved? How will this affect 1) your ability to develop new or updated ADP systems to speed applications processing and 2) conduct management evaluations of licensing systems to ensure they are operating efficiently? What systems do you plan to review in FY 1982? 1983?

ANSWER: The information management/ADP personnel resources are to be reduced by 23% from a FY 1982 ceiling of 104 to a FY 1983 ceiling of 80. Personnel resources directly involved in the development of new or updated ADP systems will be reduced 19% in FY 1983.

1) We expect to minimize the impact of this reduction on our ability to develop new or upgraded license applications processing systems by assigning a higher priority to these efforts in relation to other automation efforts.

We further expect that the tools to be made available by the Commission's new Information Management Network will improve our posture in this area. For example, the Nationwide Land Mobile Applications Processing System which will be implemented in our Gettysburg facility during FY 1983 will use network technology.

We concede that, as a result of the reduction of our personnel ceiling in FY 1983, some new starts and upgrades of licensing systems will be deferred as existing personnel resources will be required for other priority efforts such as LPTV, Computer II, USOA.

2) During FY 1982 we reviewed the Broadcast Applications Processing System. As a result of this review, work has begun to convert the broadcast applications data base to a format accessible via our Honeywell Computer data base management system (DBMS). This will materially reduce response time for on-line queries by the users of the system and improve processing of broadcast license applications.

As part of the Paperwork Reduction Act requirements, a triennial review of the Commission's microwave licensing systems is currently underway to ascertain the feasibility of combining and streamlining the microwave processing currently performed by the Common Carrier, Private Radio, Broadcast, and Cable Television Bureaus. The results of this evaluation will be made available to the Commission before the end of FY 1982.

To off-set the impact of reduced resources in FY 1983, we intend to combine management evaluations with the new systems development/major upgrade process.

QUESTION: What licensing systems do you plan to automate or update the automation of in FY 1982? 1983? How many staff years will be involved in this effort?

ANSWER: The FCC plans to automate, upgrade, or add significant functionality improvements to eighteen (18) systems that support the licensing responsibilities of the various Bureaus.

In FY 1982, ten systems supporting the following areas were identified as requiring automation support:

New:

- Landmobile (PRB) renewal and modification processing
- Landmobile (PRB) application tracking
- Broadcast Auxiliary licensing
- Low Power TV application processing
- Aeronautical Frequency (CATV) processing

Upgrade:

- Amateur license query function (on-line)
- Microwave (PRB) applications processing
- Broadcast Applications tracking and processing
- Microwave (CATV) processing
- Landmobile (CCB) applications processing

In FY 1982, these new or upgraded licensing systems will require the efforts of approximately 14 computer professionals of which ten (10) are available.

In FY 1983, another eleven system areas, including capability expansion for some FY 1982 systems, have been identified as requiring automation support. These systems are:

New:

- Landmobile (PRB) applications processing

Upgrade:

- Marine licensing system
- Microwave (PRB) licensing system
- Broadcast Applications Processing
- AM Data Base redesign
- FM Data Base redesign
- TV Data Base redesign
- Landmobile (CCB) licensing
- Domestic Facilities (CCB) processing
- Restricted and Commercial Operators licensing
- Antenna clearance processing

These FY 1983 tasks will also require approximately 14 computer professionals to accomplish, but less than five (5) will be available for these licensing systems, as presently projected.

As insufficient resources are available in each of these fiscal years, the Commission is presently in the process of prioritizing its requirements to ensure that available ADP resources are allocated to its highest priority and most productive systems. It is reasonable to expect that, as a result of this process, some resources will be shifted from other projects to licensing systems. The extent of this effort will not be known until completion of this project, which is expected on/about May 30, 1982. It is not anticipated, however, that all required resources will be available.

QUESTION: We understand that you are beginning to develop a computerized information network. What is your specific schedule for developing the network? How much will it cost? To what extent will it speed up applications processing at FCC? How? When will these improvements occur? How will the $463,000 contained in the FY 1983 budget for this system be used?

ANSWER: In 1980 the Commission published its long range plan entitled, "The Future of Electronic Information Handling at the FCC", which serves as a blueprint for information systems evolution at the FCC. In April 1981, the Commission decided to proceed with the implementation of a Management Information Network (FCC NET) as proposed in the blueprint. Although its ultimate fruition depends largely on the acquisition of adequate resources, it provides a realistic way to systematically improve the operations of the FCC using state-of-the-art technology to increase productivity and efficiency. The first installation of network technology began in August and September of 1981 with the acquisition of six microcomputers and associated peripheral equipment. During October-November 1981, the FCC installed a multi-channel message distribution facility on its first computer. We thus acquired the ability to link all of our microcomputers and, at the same time, gained access to other communicating computer networks including CSNET (Computer Science Net sponsored by the National Science Foundation) and ARPANET (a network sponsored by the Department of Defense Advanced Research Project Agency) via use of existing telephone facilities. During March and April 1982 additional microcomputers were distributed to FCC users to perform such applications as equipment authorization tracking at our Columbia, Maryland Laboratory facility, Congressional correspondence tracking in the office of the Chairman, the processing and tracking of responses to consumer inquiries in the Office of Public Affairs, license application tracking in Gettysburg and word processing.

In FY 1983, the FCC plans to expand its word processing facilities by replacing leased stand-alone equipment with "clustered" systems. Our goal is to provide lower cost equipment to a much larger number of our clerical and professional staff. During the first quarter of FY 1983 our plans call for the installation of a digital switch which will allow for full dial-in and dial-up capability to all users of the network. Also in FY 1983, we plan to install a microcomputer to accommodate the tracking of the FCC's legal docket system. This system, with its full dial-up capability, will be widely used by the FCC's legal staff. Finally, an additional computer and a number of work stations will be purchased to handle the automated processing of license applications for the Private Radio Bureau.

The next phase of network development will begin in FY 1984 when direct communication between computers is established. This will allow for an increased speed of communication between computers in use at the time. Additional software and peripheral equipment will be added to handle office automation functions including graphics, photocomposition, electronic printing and the direct processing of license applications. We anticipate that some of our equipment hardware will already be in place as a result of planned expenditures in FY 1983.

There will be an increase in the speed up of applications processing especially as applied to applications processing by our Private Radio Bureau. During FY 1983, the use of FCC NET equipment to assist in this function will be greatly expanded. We plan to replace the current network computer at our Gettysburg facility with a more powerful computer with the capacity to perform a significant amount of application processing along with the application tracking already in place. The new system will enable the applications examiner to process the applications on line and print the license immediately after processing has been completed.

Our planned expenditures for FY 1983 when the bulk of network expenditures will take place are as follows:

New Acquisitions:

1.	Four microcomputers at $40,000 each	$160,000
2.	Sixty work stations including:	
	(a) CRT buffered terminal with function keys $1500	
	(b) Shared use of 1200 baud letter quality printer 1250	
	(c) Two short haul 9600 baud modems + installation 750	
	60 work stations @ 3500	210,000
3.	Software interconnection + communications equipment	43,000
4.	Office automation and word processing equipment	50,000
	TOTAL	$463,000

QUESTION: For the last several years we understand that you have been considering changing the common carrier microwave and land mobile applications processing systems from "batch" to "on line" systems. When do you expect to accomplish this? Is there sufficient funding in your FY 1983 budget to carry out this project? How much will it cost to put the system on line and what improvement in application processing speed will result?

ANSWER: The conversion of Common Carrier microwave applications processing to an on-line system has been projected to start in March, 1983, and end in March 1984. The on-line Common Carrier land mobile system has been planned for development from the Summer of 1982 through calendar year 1983. These expectations are, however, dependent on prioritization by the Commission of all data automation requirements for FY 1983. This has become necessary, since the demands projected for FY 1983 for automated systems developments exceed budgeted resources by 14 person years.

To put the systems on-line, two computer professionals and $37,000 would be required in FY 1983, and the same two computer professionals and $55,000 would be required in FY 1984. Typically, in a conversion from batch to interactive processing in this type of an application we realize up to a 25% increase in the efficiency of the processing system. We would expect that this increase in processing efficiency will be translated into improved speed of service, reduced backlogs or improved ability to deal with increasing workloads by the licensing divisions.

QUESTION: What is the approximate time involved to obtain clearance from Mexico and Canada on applications for use of radio frequencies near the U.S. borders? What efforts have you made to facilitate the frequency clearance process? How many applications are involved?

ANSWER: There is no formal coordination procedure with Mexico for most of the terrestrial services authorized by the Common Carrier Bureau. For satellite

services, an international framework does exist. We are in the process of incorporating it into our licensing procedures through proposed Section 25.202(c) of our Rules.

Our coordination procedures with Canada are more formal and complex. Currently, it takes 4 to 4 1/2 months to obtain a frequency clearance from Canada. This time period applies to all frequencies subject to coordination except satellite services.

Reducing the time for frequency clearances from Canada was discussed at the recently held Joint U.S. Canada Radio Technical Committee meeting in Ottawa. The consensus of the meeting was that some form of automated system would be required to expedite the clearance process. Absent this, the clearance time for the U.S. requests would remain 4 to 4 1/2-months. The Canadian Department of Communications indicated that the implementation of an automated system in Canada is targeted for mid-winter 1983. Both countries are now evaluating interim measures to speed up the process.

The number of applications requiring coordination varies depending on the radio service involved. Generally, each year approximately 100-150 fixed service applications, 400-500 mobile service applications, and 75-100 satellite service applications received in the Common Carrier Bureau require coordination.

The U.S. has AM, FM and TV agreements involving Canada and Mexico. FM and TV clearances with Canada require 30 to 90 days, whereas these clearances with Mexico require 30 days to 6 months. In those instances where response times become excessive, the Commission can exercise the option to communicate by telephone or telex to expedite action. This often successfully results in expedited action, although, in the case of Mexico, language differences can be a factor. In regard to AM notifications, response times for both Mexico and Canada are generally within six months. There have been instances, however, where Mexico has required well in excess of six months. It is important to note, however, that U.S. AM stations are routinely authorized by the FCC as they are notified which avoids the above delays. This is possible as a result of the confidence that the FCC has in its technical studies that show that assignments being notified comply with the agreements. This method has proven satisfactory. The FCC notifies approximatley 500 and 100 FM and TV applications annually to Canada and Mexico, respectively. Approximately 1,500 AM notifications are made to Canada and Mexico, respectively.

Currently it is taking 4 ½ to 5 months to obtain clearance from Canada on applications for use of private radio frequencies near the U.S. border. We consider this to be a serious delay in our efforts to serve the public and do not foresee any short term improvements until such time as these processes can be automated.

Our efforts to facilitate the frequency clearance process include recent informal discussions with the Canadian Department of Communications personnel in which several areas for possible electronic exchange of frequency clearance data have been identified. Further, the Commission issued a Public Notice in which clearance criteria is detailed so as to inform the public and expedite their future applications.

The monthly average of applications requiring Canadian clearance is approximately 450. This total represents a range of from less that 1% to 2.5% of the total receipts of the affected radio services.

We do not presently coordinate any applications with Mexico.

QUESTION: For the last few years the Broadcast Bureau has been working on a computerized Broadcast Application Processing System. What is the status of this system? What are your short term objectives for this System? Your long term objectives? What are your other major priorities for automating Broadcast Bureau application processing?

ANSWER: In 1981 when we last reported the status of our Broadcast Application Processing System (BAPS) to you, we indicated that BAPS generated all Broadcast Bureau Acceptance Public Notices and the Action Public Notices for Television and Auxiliary Services. The system also prepared all application processing worksheets, provided notification of receipt postcards, generated mailing labels on requests for all services, and supported an on-line station retrieval capability and generated limited application processing turnaround statistics.

Since that report, all Action Public Notices for all Broadcast services are now computer-generated. Additionally, on September 1, 1981, we eliminated the posting of application and licensee information on the manual "history cards" and entered this data instead into our BAPS database.

On April 14, 1982, we issued the first Broadcast Bureau computer-generated authorization. This was a construction permit for an aural studio transmitter link station (an auxiliary broadcast service). It is now possible to generate all of our auxiliary service authorizations via the computer. This will account for approximately 2,300 authorizations per year.

We will begin utilizing a computer-generated postcard renewal authorization with the June 1, 1982 renewal group.

Our next major effort in the computer-generated authorization area will be TV authorizations. Our target is to implement this system by the end of FY 1982. Immediately following this step, we will proceed with the design and implementation of the Low Power TV authorization. We plan to implement this system by mid-FY 1983 immediately after installation and testing of the LPTV mini-computer.

We are targeting the FM computer-generated authorizations for the end of FY 1983 and the AM authorization for FY 1984.

This entire schedule is dependent on Commission priorities set for the utilization of a shrinking computer staff.

Another major effort for the BAPS system is conversion to a database management system. Our approach to converting the database will be a phased one. Phase I will be to implement a modified DMIV data base which will include on-line date update capability. This phase will allow us to identify errors and make corrections to the database immediately, rather than waiting one or two days to receive an error listing. This system will also identify certain types of entry errors and alert the operators to make corrections before the errors are entered into the database. Finally, this phase will allow searches of the database by licensee name, frequency, and pending facility type. Currently, our search capacity is limited to call sign, city and state, and application by file number. Phase I will allow much more efficient utilization of our database and through improved access will save manhours in the processing of applications. This phase will be completed by the end of FY 1982.

Phase II will include the complete conversion of the BAPS database to DMIV including conversion or rewrite of all current BAPS programs. The specific benefit of this phase is the ability to do a general query and go directly to a specific item within the application record without having to search the entire record.

Phase III will provide a more responsive Division-level tracking capability which will allow identification of the location and status of any application through a simple computer query. This will provide more accurate management control of applications, petitions, amendments, etc.

Phase IV will convert the entire BAPS program, in its database management format, to a minicomputer environment. This final step will allow the Bureau more control over the use of the system, allowing priority issues to receive priority treatment without competing with other critical Commission uses. This conversion will also alleviate some of the congestion on the central Honeywell computer, will release for other uses considerable disk space on the Honeywell and will compliment the Bureau's long-range (five year) plan for

automation. This plan includes management of numerous other Bureau databases which also support the processing of applications.

QUESTION: Your budget submission indicates a reduction of four positions (five staff years) for administrative law judges. Do you expect their workload to decrease correspondingly? To what extent is this reduction likely to impede the scheduling and completion of comparative hearings to choose among applicants for new stations in cases where their applications are mutually exclusive?

ANSWER: As a threshold matter, certain facts must be pointed out. First, the four position reduction which is reflected in the Commission's FY 83 budget relates to the Office of Administrative Law Judges, not specifically to the Judges themselves. Second, it must be noted that personnel ceilings have intermittently been imposed across the board by the Commission on its various Bureaus and Offices. The staff of this Office has for some years consisted of thirteen Administrative Law Judges, thirteen Legal Technicians, and one Administrative Officer. Over a period of time, the personnel ceiling has on paper been reduced by four persons. It was intended that attrition would take care of the overage. The nature of this small office is such, however, that there is not a considerable turnover of personnel. As a result, it has remained at twenty-seven persons while its personnel ceiling has gradually been reduced to twenty-three. The Commission's FY 83 budget submission now imposes a reduction of an additional four persons. We are thus in the position of reducing an office of 27 down to 19 persons. Third, rather than decreasing, the workload of this Office has increased over the past years. The following comparison between FY 76 and FY 81 is illustrative of the work being handled.

	FY 76	FY 81
No. of new cases	126	346
No. of applications involved	193	626
No. of formal hearings held	72	132
No. of conferences held	220	311
No. of interlocutory orders issued	1540	4789

This Office's workload came about, in part, as a result of the assumption by the Presiding Judges of additional duties previously performed by other offices of the Commission. For example, the function of ruling on various interlocutory matters such as petitions to enlarge issues and settlement agreements was transferred to this Office from the Review Board. Additionally, new procedures with respect to the processing of contested broadcast applications have also resulted in additional work for the Presiding Judges. Formerly, the processing staff, through correspondence, notified the applicants in predesignation letters as to the specific deficiencies, giving them an opportunity to cure these matters. This procedure is no longer followed. As a result, hearing designation orders frequently contain a number of disqualifying issues (i.e., financial and/or technical matters). The applicants, after designation for hearing, now amend their proposals to meet these issues and, quite frequently, thereafter file a motion for summary decision with respect to such issues. These motions and the pleadings they generate must be acted upon by the Presiding Judge.

The future portends yet additional sources of work, namely, the highly technical cellular proceedings which are to be designated for hearing on an expedited basis within the next several months, and the large volume of low power television cases which may also be set for hearing. Efforts are currently under way to obtain attorneys from other Bureaus and Offices to assist in handling these cases.

The Office has opted to sustain its personnel reductions in its support staff. The Office has consistently devised innovative methods to keep cases flowing smoothly. We will continue to pursue this course in the face of the contemplated reduction. Some of the techniques we have and will continue to pursue follow.

The Office of Managing Director is investigating the feasibility of using word processing equipment if this can be done without compromising the security of our decisions and Orders, and if a sufficient amount of these machines can be made available so as to avoid rather than create a backlog.

The Presiding Judges are endeavoring to make as many rulings as possible on the record of prehearing conferences held for that purpose. In this way, where appropriate, a brief Order can be issued merely memorializing the ruling made and making reference to the transcript of the conference which will contain the reasons for the particular ruling.

Section 1.248(d)(2) of the Commission's Rules vests in the Presiding Judge the discretion to require all or any portion of a direct affirmative case to be submitted in writing. This section concerns "hearings involving applications for new, improved or changed facilities." In other broadcast proceedings, the Commission has expressly encouraged the parties to make written submissions of their direct affirmative cases. This Office has requested that a rule such as section 1.248(d)(2) be promulgated in regard to all cases under the Commission's jurisdiction so that the Presiding Judge will have the flexibility to require direct, written submissions where it appears that such a procedure will contribute significantly to the expeditious disposition of the proceeding. Such a rule will allow the use of mixed written and oral hearings where appropriate, and the use of a 100% written hearing in those limited situations where the issues are simple and routine and where no genuine significant issues of fact exist.

It must be emphasized that the Office of Administrative Law Judges has no control over its caseload. Its mission is simply to hear and decide in as expeditious a fashion as possible those cases which are designated for hearing by the Commission or by its bureaus acting under delegated authority. It has become apparent that because of the increased number of applications which have been designated for hearing, the Commission's processing staff on occasion has failed to articulate in detail why designating a given issue for hearing is or is not warranted. As a consequence, when these applications are designated for hearing, some engender a large volume of interlocutory requests. The Commission itself recognized this problem in 1979 when it issued its Revised Procedures for the Processing of Contested Broadcast Applications, 72 FCC 2d 202. This Office has initiated meetings with the various bureaus in an effort to preclude unnecessary relitigation of matters which might have been dealt with by a brief statement in the hearing order. The Office of Administrative Law Judges intends to maintain a continuing liaison with the bureaus which prepare orders of designation to point out any instances which come to our attention where a tighter designation order would have facilitated a more expeditious completion of a hearing.

In sum, although support staff will diminish by approximately 1/3, we will initiate innovative techniques, amplify staff to handle cellular radio hearings, and employ time-saving devices in an effort to maintain the expeditious resolution of all of the cases which are designated for hearing. It is the goal of each and every Administrative Law Judge to avoid any delay in bringing new service to the broadcast listening and viewing public as well as to the remainder of the telecommunications industry.

QUESTION: What affect do you expect the reduction in public service/consumer assistance activities at the Commission to have on applications processing? Will the reductions in these areas result in more questions from the public being referred to persons who are also responsible for processing applications?

ANSWER: Specific questions concerning broadcast applications processing have always been answered by the Division or Branch involved in processing applications. Since the Broadcast Bureau does not propose any significant reduction in staff involved in applications processing, we do not expect any adverse impact upon our applications processing programs.

To the extent that inquiries on applications procedures are handled by the Consumer Affairs Division of the Common Carrier Bureau, a decrease in staffing

will cause some shifting of workload to other operating divisions. The reduction in the staff of this division will also affect informal complaints handling and tariff-related inquiries. When public inquiries on tariff matters and docketed proceedings are not answered by the Consumer Affairs Division staff, the individual responsible for reviewing the application or processing the tariff matter will answer public questions. Increased backlog also means that certain complaints will not be addressed promptly.

Since past experience has shown that the speed of service of application processing has a direct relationship to consumer inquiries and complaints, we will continue to refer questions from the public to the Private Radio Bureau's Consumer Assistance Branch and not to persons who are responsible for processing applications. During the past six months, we found that the improved speed of service substantially reduced complaints and inquiries. Therefore, if we are able to obtain additional automation of application processing, we should be able to maintain speeds of service at reasonable levels and not incur additional complaints.

QUESTION: Your FY 1983 budget submission would require a reduction-in-force of 296 people. To what extent do you expect that experienced persons involved in applications processing (examiners, engineers, attorneys) might be lost due to "bumping" by other personnel?

ANSWER: The greater proportion of both the professional and paraprofessional employees at the FCC are involved in the receipt, analysis, and processing of applications. Given the proposed magnitude of our reduction-in-force, it is probable that a number of these employees will be displaced due to both "bumping" and "retreat" by other personnel although an accurate prediction cannot be made. However, no employee would be assigned to these positions unless he or she had demonstrated the capacity, adaptability, and specialized skills required for satisfactory performance of the work without undue interruption to our authorization of service activities.

QUESTION: During recent years the Commission has experienced difficulties in hiring and retaining engineers? Does this problem still exist? To what extent does it affect your ability to process applications and deal with technical rule changes? What action have you taken or can you suggest which would improve the Commission's ability to hire and keep engineers?

ANSWER: The Commission has operated with an almost total hiring freeze during the last two years, so the question of hiring is moot. However, should the freeze be lifted, hiring would be quite difficult for the following reasons:

The Commission requires electronics engineers and technicians with radiofrequency (RF) training and/or experience, a commodity in short supply. There is intense competition with industry and the Department of Defense (DOD).

The recruitment machinery is rusty and contact with our recruiting sources will require extensive time and effort to attract potential hirees. The Commission will compete with some great handicaps.

--Industry salaries cannot be approached even with OPM's premimum pay for the entry levels. This might be alleviated if OPM would revise its criteria for RF training and/or experiences. Also, OPM eligibility standards are quite stringent.

--In contrast to the Commission, industry and DOD can offer substantial benefits via continuing education funding.

--The less tangible, but often attractive, benefits of traditional Commission employment stability and retirement are undermined by

continuing budgetary uncertainties and proposals to change the retirement system.

Retention of electronics engineers is affected by the factors noted in the hiring discussion. Field Operations has the added problems of facility closures and the attractions of higher grade levels in Washington. Some preliminary studies indicate DOD and other agencies such as FAA, are able to offer higher grades in the field for apparently comparable work and responsibilities. The difference may lie in OPM classification standards and credits derived from field office sizes.

The Commission has been implementing computer processing and related adjustments in the technical criteria of the rules to automate application grants. This minimizes the need for review of the "routine" filings; however, those that cannot be processed in this manner are quite complex. The experienced engineers are needed to develop, test and evaluate the automated systems. In addition, mushrooming technology dictates continual adjustments of systems and technical rules. In particular, the strain of compatibility (EMC) between the radio services has or will rapidly outdate existing technical standards. Failures or shortcomings in these activities will seriously impact the existing workload of the field engineers.

The Commission must have the flexibility to compete with industry and DOD. Timely action on budgets will enable resource authorizations to be known and recruiting, hiring and other actions to be planned and executed. Flexibility to compete also requires recognition by OPM of the Commission's peculiar needs by making adjustments in standards for establishing entry levels, grade classifications and continuing education. The Commission desires to increase the use of electronic technicians so that the engineers can apply themselves to the multitude of complex technology issues the agency must face. To do so means that it must face the same hiring and retention problems for technicians as for engineers.

The Commission has another problem of the "aging" of experienced senior engineers. Unless it is able to meet a commitment to recruit, hire and train junior technicians and engineers annually, without fail, it will have no replacements for departing senior staff. This may become a crisis in the next 2-3 years.

QUESTION: What do you expect the effect to be on application processing times if a fee schedule such as that contained in S. 1629 is adopted without the Commission being provided any additional resources?

ANSWER: It is expected that if a new fee schedule, such as that contained in S. 1629, is adopted without the Commission being provided any additional resources, present application processing times would not be able to be maintained. This would be true in all bureaus and offices. On top of the additional workload of processing fees, additional delays would inherently be necessary to ensure proper collection and clearing of funds paid. These accountability procedures could cause a substantial slowdown. In the case of renewals of licenses where most are now processed for immediate turn around, processing time could be increased by as much as 3 to 4 weeks.

We currently estimate that 33 staff members will be required to process applications if a new fee schedule were implemented. Fourteen of the staff members are presently working in related applications processing positions. An additional 19 new staff members would be required throughout the Commission to process the increased workload in a timely manner. This estimate does not take into account the anticipated Reduction in Force or possible furloughs which will be necessary beginning FY 1983 because of budget reductions. Such reductions would add to the burden of collecting fees and processing applications and thereby increase application processing times still further.

QUESTION: We understand the Commission had been considering the purchase of a mini computer for handling applications processing functions in the Private Radio Bureau. What would be the cost of purchasing, installing and operating such a computer? What benefits would result from its use either in terms of increased speed of service or reduces personnel needs?

ANSWER: We plan to allocate $60,000 from the $463,000 already earmarked in FY 1983 for the Information Management Network, to upgrade the network equipment already installed in our Gettysburg facility. The presently installed equipment provides a limited capability to track license applications and has improved our ability to answer queries from applicants as to the status of their applications. The total additional cost of purchasing, installing, and operating a comprehensive automated license processing system in Gettysburg would be about $240,000. We expect about $180,000 to be used to purchase new hardware and the remaining $60,000 to be used to acquire softwares, maintenance, and communications lines. As the Gettysburg facility presently contains a complete computer room, we expect only minor electrical work would be required for site installation. Operational personnel requirements in Gettysburg will be satisfied through internal realignment of existing staff.

We believe that further improvement to our Private Radio Bureau application processing functions could be achieved through the acquisition and installation of a mini computer in Gettysburg. Our automated aircraft and ship batch processing systems are over 16 years old and require complete redesign to align them with current rules, to insure compliance with international reporting requirements, and to take advantage of on-line technology. The automated Amateur and Microwave systems also require modification to permit on-line data base access. However, the most significant improvements would be realized through development of an Automated Land Mobile Application Processing System (ALMAPS). While this processing is basically a manual function, limited automation was implemented during FY 1982 with extremely positive results. In January 1982, the automated frequency file was used to implement processing of land mobile renewals with the result that the Licensing Division was able to reduce its speed of service to the public from sixty (60) days to thirty (30) days while reducing its processing staff by 1.5 workyears. In April 1982, we implemented an Application Process Tracking System (APTS) which will be used to answer governmental and public queries regarding the status of applications. The results to date look promising. The most advantageous efficiencies in processing, through automation, are yet to be realized.

Full automation of Land Mobile would permit us to perform certain screening functions such as Canadian coordination and antenna clearance, to replace many of the manual examination functions with automated ones, print licenses, and update and maintain an accurate and timely data base. For those applications requiring Canadian or antenna coordination/clearance the time required to obtain the necessary clearance could be reduced 30 and 14 days respectively. Improvements in the processing of modification applications would be similar to those stated above for renewals. Replacement of our voluminous, labor-intensive manual license files with automated files is also achievable. But the most significant benefit of automation would be the ability of our Licensing Division to process the ever increasing application receipts without a corresponding increase in the work force.

QUESTION: What ADP support will be needed for you to revise and administer the Uniform System of Accounts for telephone companies? When will this support be needed? Are any funds for this included in the FY 1983 budget?

ANSWER: The FCC expects to fully automate the Uniform System of Accounts (USOA) function. ADP support requirements include systems analysis, design, programming, and implementation of: a data base; a system for collecting data from telephone companies; query and update capabilities under a Data Base Management System; and programs to produce financial and special periodic reports. The estimated cost for this is $75,000 per fiscal year for two consecutive fiscal years starting in FY 1984. An additional $25,000 for terminal, communications and on-line storage equipment will be required in FY 1984.

This ADP support will be required starting in FY 1984. Common Carrier staff with ADP experience will be working with members of the Telecommunications Industry Advisory Group (TIAG) to insure that ADP considerations are taken into account throughout the design process. This will occur throughout FY 1983 and beyond. Full-time ADP support is not anticipated until FY 1984, when it is expected that the progress of the TIAG will be at a point where an ADP specifications phase can begin.

No funds for ADP support of the USOA are included in the FY 1983 budget, nor will any be required.

QUESTION: We understand you leased a DEC VAX 11/780 computer for use during the 1981 Region II AM Radio Conference in Rio de Janeiro, Brazil. How much was spent for this? Are funds for the continued lease of time on this computer included in your FY 1983 budget? If not, will this affect U.S. participation in the 1983 Region II Broadcast Satellite Conference?

ANSWER: The cost for the leasing of the DEC VAX 11/780 computer for the Region 2 AM Radio Conference is estimated at $99,000. Funds for continued lease of this computer are not included in the FY 1983 Budget. However, the Commission is looking into funding from other sources to provide computer services for the 1983 Region 2 Broadcast Satellite Conference. Should funding not become available, the United States' position at the 1983 Conference could be adversely affected. U.S. conference preparatory efforts are being based upon the availability of computer support facilities for the U.S. delegation in Geneva. Without U.S. controlled computer support, we will be completely reliant upon ITU computer facilities, which are also time-shared for other ITU activities. Past experience has shown that the ITU cannot be counted on to provide support in a timely manner.

QUESTION: You plan to spend $200,000 to plan a computerized data base to support auditing and monitoring activities related to Computer II. Is this money to be used simply to design the system or will it cover all hardware and software costs as well as putting the system in, loading, testing and running it? If not who will perform these tasks and what additional costs will be involved?

ANSWER: In order to implement the Computer II decision, we are developing a plan to audit AT&T's compliance with the separation conditions set forth in that decision. Monitoring AT&T and auditing specific areas of its operations will be a critical aspect of our enforcement program. We must monitor all inter-corporate transactions, including Administrative Services, Installation and Maintenance, joint R&D, equipment sales, and the use of tariffed services. In addition, we must monitor areas where interactions between the regulated and unregulated companies are not permitted, such as joint marketing and software development, to ensure that the carrier is complying with the Computer II separation requirements. Based on the results of our monitoring, we will select specific audit targets.

Given our limited auditing resources, we must target audits carefully. Our plans are to analyze AT&T accounting and data collection systems and to select specific areas to monitor. For example, we might compare the subsidiary's records on administrative service requests to corresponding parent company records. Inconsistencies or unusual patterns might induce an FCC inquiry or on site investigation. We expect to develop a series of computer applications to analyze company data for unusual situations or inconsistencies with other data.

Given the limited resources available, we are not planning to develop a large data base with interactive user capabilities. Instead, we expect to develop a series of batch oriented programs, each with a focused purpose. The exact nature of these programs will depend on the types of accounting systems AT&T will use, and the types of interactions which will exist between AT&T and separated subsidiaries. At this time we are analyzing AT&T's existing accounting systems, and those which AT&T has under development. We have not

reached the point at which we can list the detailed computer applications which will be needed.

Our current plans are to perform accounting and systems analysis internally. Funding will be required for contract programmers or programming personnel detailed from other agencies. If practical, we shall use the existing FCC computer facilities. (Current crowding on the system, however, would limit us to overnight batch jobs.) Since we are not planning to develop a large, conventional "operations" system, loading, testing, and operations are not expected to be major sources of expense. As the question anticipates, however, this will be a continuing effort with more applications programs being developed in succeeding years.

QUESTION: There is a great deal of concern that the granting of translator applications have been unnecessarily and unfairly delayed due to the influx of low-power television applications. Couldn't the FCC have eliminated these inequities by granting the translator applications filed before the low-power rules were proposed and which have achieved cut-off status?

ANSWER: Traditional translator stations and low-power stations operate on the same channels and are technically identical; the only difference is that low-power stations are permitted to originate programming, traditional translators are not. For this reason, the Commission has had to treat the two types of applications similarly throughout the low-power television rulemaking. When the rulemaking was commenced on September 9, 1980, there were approximately 400 translator applications pending, many from rural areas. By April 19, 1981, there were nearly 5,000 translator and low-power applications on file. Because of the technical complexities of identifying applications that are mutually exclusive (cannot operate without causing interference to one or more co-pending applications), it became clear that these applications realistically could not be processed manually; computer processing was essential. The Commission therefore imposed a freeze on additional applications until engineering and procedural rules could be developed that would permit the use of computerized methods of processing these applications. Because traditional translator stations and low-power stations are technically identical, the freeze, of necessity, had to include both types of applications. If translator applications had not been included in the freeze, the volume of incoming applications would not have been significantly reduced because those ultimately seeking low-power outlets could have legitimately filed for translator facilities and converted them to low-power facilities at a later date. Also, if translators had been treated differently, this distinction would have been subject to abuse; because of the technical similarities, parties whose real interest was in low-power stations could just as well have applied for translators, with the intent of originating programming later, totally circumventing the rulemaking process.

QUESTION: If this is not feasible, what actions can the FCC take to make the situation for translator applicants more equitable?

ANSWER: The freeze is not absolute. In order to encourage rural service, translator and low power applicants proposing to serve communities that receive less than two full-service signals were exempt. We have, by public notice, repeatedly asked applicants who filed prior to the freeze to notify the Commission if their proposals meet the freeze exemption and therefore can be processed. Since the freeze has been in effect, over 400 new and major change television translator applications have been cut-off and processed to grant.

A Report and Order establishing final rules, both technical and procedural, was adopted by the Commission on March 4, 1982. A tiered processing program has been adopted whereby pending applications will be processed in three groups, from very rural to urban. Many of the traditional translator applications that are pending are in the first rural group to be processed. Although these must be processed manually until we have a computer on-line, we expect slow but steady progress. It should be noted, however, that by law we must consider competing applications to those on file before granting a license. This

effectively means that in order to eliminate the existing backlog, we must not only process the approximately 6,500 applications currently on file, but an additional 14,000 that we anticipate will be filed either in direct conflict with pending applications or filed as freeze exemptions. Once we have the computer on-line in mid Fiscal Year 1983, the technical aspects of processing should be speeded up considerably. We already have begun the procurement process for the computer.

Because, as we indicated above, traditional translators and low power television proposals cannot be distinguished from an engineering point of view, we shall be processing and authorizing both types of services with the funding requested in the Fiscal Year 1983 budget. Under the tiered processing system, applications to serve rural areas will be addressed first.

SMALL BUSINESS ADMINISTRATION

STATEMENT OF JAMES C. SANDERS, ADMINISTRATOR

ACCOMPANIED BY:

HARRY S. CARVER, CONTROLLER

EDWIN T. HOLLOWAY, ASSOCIATE ADMINISTRATOR

PREPARED STATEMENT

Senator WEICKER. Our next request is that of the Small Business Administration. The request consists of budget authority totaling $378.7 million which is $191.2 million less than fiscal year 1982.

Appearing on behalf of this request is James C. Sanders, the Administrator, who is accompanied by Harry S. Carver, the Controller, and Edwin T. Holloway, the Associate Administrator for Financial Assistance.

We will include your statement in the record in its entirety. Perhaps you would like to summarize it and then we will have time for questions.

[The statement follows:]

STATEMENT OF JAMES C. SANDERS

IT IS A PLEASURE TO HAVE THE OPPORTUNITY TO APPEAR BEFORE YOU TO DISCUSS THE AGENCY'S FY 1983 BUDGET REQUEST. ACCOMPANYING ME TODAY IS MR. EDWIN T. HOLLOWAY, ASSOCIATE ADMINISTRATOR FOR FINANCE AND INVESTMENT AND HARRY S. CARVER, OUR CONTROLLER. THE REQUEST CONSISTS OF BUDGET AUTHORITY FOR THREE ITEMS AS FOLLOWS:

(1) BUSINESS LOAN AND INVESTMENT FUND	
CAPITAL APPROPRIATION	$143,700,000
(2) LEASE GUARANTEES REVOLVING FUND	
CAPITAL APPROPRIATION	7,000,000
(3) SALARIES AND EXPENSES	
DIRECT APPROPRIATION	228,000,000

MR. CHAIRMAN, WITH YOUR PERMISSION, BEFORE GETTING TO THE SPECIFIC APPROPRIATION REQUEST ITEMS, I WOULD LIKE TO BRIEFLY HIGHLIGHT OUR FY 1983 PROGRAM. THE REDUCTION IN SBA FINANCIAL ASSISTANCE IS AN INTEGRAL PART OF THE ADMINISTRATION'S EFFORT TO REDUCE FEDERAL CREDIT PROGRAMS AND, THEREBY INCREASE PRIVATE CREDIT AVAILABILITY FOR BUSINESSES. IT IS FELT THAT THE SMALL BUSINESS COMMUNITY AS A WHOLE, WILL BENEFIT MORE FROM THE EFFORTS TO STABILIZE THE FINANCIAL MARKETS, REDUCE INTEREST RATES AND LOWER THE INFLATION RATE THAN FROM DIRECT FEDERAL CREDIT SUBSIDIES. SUBSIDIZED DIRECT LOANS INCREASE THE NEED FOR FEDERAL BORROWING AND, BECAUSE THEY CAN BE PROVIDED TO ONLY A SMALL FRACTION OF THE COMMUNITY, THEY TEND TO CREATE COMPETITIVE DISTORTIONS VIS-A-VIS EQUALLY DESERVING NON-SUBSIDIZED SMALL FIRMS. CONSEQUENTLY, THE BUDGET REQUEST FOR SBA CALLS FOR ELIMINATION OF SUBSIDIZED DIRECT LOANS, AND $2.4 BILLION IN NEW COMMITMENTS FOR GUARANTEED LOANS, INCLUDING $125 MILLION FOR SMALL BUSINESS INVESTMENT COMPANIES. THERE WILL BE $41 MILLION IN DIRECT FINANCING FOR MINORITY ENTERPRISE SMALL BUSINESS INVESTMENT COMPANIES.

WE PLAN TO CONTINUE A VIGOROUS DEBT COLLECTION PROGRAM TO CURTAIL DELINQUENCIES AND LOSSES IN OUR ALMOST $18 BILLION PORTFOLIO. IN LINE WITH THIS, WE REQUEST CONTINUATION OF AUTHORITY

FOR SOME 275 DISASTER TEMPORARIES FOR SERVICING DISASTER HOME AND FARM-RELATED LOANS.

THE AGENCY WILL CONTINUE TO EMPHASIZE ITS COMMITMENT TO THE MINORITY SMALL BUSINESS COMMUNITY WITH PARTICULAR EMPHASIS PLACED ON PRESERVATION OR ESTABLISHMENT OF SMALL CONCERNS LOCATED IN URBAN AND RURAL AREAS WITH HIGH PROPORTIONS OF UNEMPLOYED OR LOW INCOME INDIVIDUALS. IN FY 1983, 17% OF SBA'S GUARANTEED BUSINESS LOANS HAVE BEEN RESERVED FOR MINORITY-OWNED FIRMS. IN ADDITION, NON-CREDIT ASSISTANCE SUCH AS THE 7(J) PROFESSIONAL CONSULTING PROGRAM HAS BEEN INCREASED BY $5 MILLION TO $15 MILLION FOR FY 1983. IN OUR BUSINESS DEVELOPMENT EFFORT, NEW RULES AND REGULATIONS HAVE BEEN ESTABLISHED FOR THE 8(A) PROGRAM. BY ESTABLISHING FIXED PERIODS FOR FIRMS TO PARTICIPATE IN THE PROGRAM, WE WILL PROVIDE THE OPPORTUNITY FOR MANY MORE SMALL DISADVANTAGED BUSINESSES TO PARTICIPATE AND ALLOW A MORE EQUITABLE DISTRIBUTION OF THE CONTRACT DOLLARS.

COUNSELING AND TRAINING UNDER THE MANAGEMENT ASSISTANCE ACTIVITY WILL RELY INCREASINGLY ON THE PRIVATE SECTOR, WITH SUCH GROUPS AS SCORE/ACE, PROFESSIONAL AND TRADE ASSOCIATIONS, AND THE EDUCATIONAL COMMUNITY PROVIDING AN INCREASINGLY HIGH QUALITY OF IN-DEPTH COUNSELING. THE VARIOUS PROGRAMS UNDER THE PROCUREMENT ASSISTANCE ACTIVITY WILL CONTINUE TO STRIVE TO ASSURE THAT SMALL BUSINESS RECEIVES A FAIR SHARE OF THE FEDERAL PROCUREMENT DOLLAR. ON THE MANAGEMENT SIDE, THE OVERSIGHT AND REVIEW FUNCTIONS OF THE INSPECTOR GENERAL'S OFFICE WILL BE MAINTAINED AT CURRENT LEVELS AND THE UPGRADING OF THE CENTRAL DATA CENTER AND EXPANSION OF THE AGENCY'S COMPUTERIZED NETWORK SUPPORT SYSTEM WILL CONTINUE.

NO NEW AUTHORITY IS REQUESTED FOR THREE OF THE REVOLVING FUNDS FOR FY 1983. THE DISASTER LOAN FUND, THROUGH REPAYMENTS FROM PRIOR YEAR LOANS, WILL FINANCE A PROGRAM OF $440,000,000 IN PHYSICAL DISASTER LOANS WITHOUT NEW CAPITAL OR BORROWING AUTHORITY. IN FACT, A NEGATIVE OUTLAY FIGURE IS FORECAST. THE SURETY BOND GUARANTEES FUND, BECAUSE OF A LARGE UNOBLIGATED BALANCE FROM FY 1982 AND WITH FY 1983 RECEIPTS, WILL SUPPORT A PROGRAM LEVEL OF $1.08 BILLION.

THE SAME HOLDS TRUE FOR THE POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEES FUND WHERE FY 1982 UNOBLIGATED BALANCES PLUS FY 1983 RECEIPTS WILL GENERATE A PROGRAM OF $150 MILLION IN NEW POLLUTION CONTROL BONDS.

NOW, MR. CHAIRMAN, LET ME DISCUSS THE SPECIFIC APPROPRIATION ITEMS.

BUSINESS LOAN AND INVESTMENT FUND

WE ARE REQUESTING A CAPITAL APPROPRIATION OF $143,700,000 FOR FY 1983 FOR THE BUSINESS LOAN AND INVESTMENT FUND. THIS COMPARES WITH $326 MILLION OF ADDITIONAL CAPITAL PROVIDED IN FY 1982 AND REFLECTS THE RESULT OF REDUCED FEDERAL LENDING LEVELS. TOTAL OBLIGATIONS FOR FY 1983 WILL BE $794.9 MILLION OFFSET BY REPAYMENTS AND OTHER FINANCING OF $702.2 MILLION LEAVING $92.7 MILLION IN NET OBLIGATIONS. WITH PROJECTED OPENING AND YEAR-END UNOBLIGATED BALANCES OF $88.2 MILLION AND $123.1 MILLION, RESPECTIVELY, THE $143.7 MILLION ADDITIONAL CAPITAL WILL BE REQUIRED TO ACHIEVE OUR PROGRAM LEVELS. OUTLAYS ARE ESTIMATED AT $129.9 MILLION FOR FY 1983 COMPARED TO $359 MILLION IN FY 1982.

LEASE GUARANTEES REVOLVING FUND

WE ARE REQUESTING $7 MILLION IN CAPITAL FOR THE LEASE GUARANTEES REVOLVING FUND. ALTHOUGH NO NEW PROGRAM OBLIGATIONS WILL BE CHARGED TO THIS FUND, AN ADDITIONAL CAPITAL APPROPRIATION OF $7 MILLION IS REQUESTED TO HONOR CLAIMS ARISING FROM PRIOR-YEAR OBLIGATIONS. IT IS ESTIMATED THAT THIS AMOUNT WILL BE SUFFICIENT TO LIQUIDATE ALL CLAIMS ARISING THROUGHOUT THE REMAINING LIFE OF THIS PROGRAM.

SALARIES AND EXPENSES

A DIRECT APPROPRIATION OF $228,000,000 IS REQUESTED FOR FY 1983 FOR SALARIES AND EXPENSES OF THE SMALL BUSINESS ADMINISTRATION. IN ADDITION, $16,600,000 IN TRANSFER AUTHORITY FROM THE DISASTER LOAN FUND IS REQUESTED FOR DISASTER LOAN MAKING ($10.6 MILLION) AND DISASTER LOAN SERVICING ($6.0 MILLION). THE COMPARABLE FIGURES FOR FY 1982 ARE $221,945,000 IN DIRECT APPROPRIATION AND $19,200,000 FOR THE DISASTER TRANSFER. IN ORDER TO IDENTIFY MAJOR

MINORITY ASSISTANCE PROGRAMS IN ONE FUND, THE $15 MILLION REQUESTED FOR BUSINESS DEVELOPMENT EXPENSES ASSOCIATED WITH THE 8(A) PROGRAM HAS BEEN TRANSFERRED FROM THE BUSINESS LOAN AND INVESTMENT FUND TO SALARIES AND EXPENSES.

THE REQUEST REFLECTS A REDUCTION OF 239 IN OUR AUTHORIZED PERMANENT POSITIIONS FROM 4,275 IN FY 1982 TO 4,036 IN FY 1983, AND IN OUR AUTHORIZED YEAR-END PERMANENT CEILING OF 220 FROM 4,036 TO 3,816.

MR. CHAIRMAN, THIS COMPLETES MY BRIEF REVIEW OF SBA'S BUDGET REQUEST FOR FY 1983. WE WILL BE PLEASED TO ANSWER ANY QUESTIONS THE COMMITTEE MAY HAVE.

Mr. SANDERS. Very good.

Senator WEICKER. How is everything going over there?

Mr. SANDERS. Very fast.

Senator WEICKER. You got sworn in about 3 weeks ago?

Mr. SANDERS. That is correct. I have almost come to the surface now. Thank you, Senator.

I think as you said, we have included the statement for the record and you know who is accompanying me here at the head table.

Senator WEICKER. Let me ask, as I understand it, the budget provides nothing for direct loans, is that correct?

Mr. SANDERS. That is correct, outside of the funding for the MESBIC program, no direct loans.

Senator WEICKER. A recent study by the SBA Office of Advocacy indicates that the current economic condition in the United States threatens the future existence of mom-and-pop type small businesses. In light of this study, and in your new role as the chief advocate for small business, do you believe the administration's economic game plan adequately addresses the needs of small businesses?

Do you have any recommendations to make to the administration, and if so what would those recommendations be?

Mr. SANDERS. Well, sir, we are continuing in our thrust and attitude that the best climate for small businesses is recovery. We relax and eliminate Government regulations that inhibit growth and formation of new businesses. The establishment and development of economic climates in which inflation has reduced and general taxes that are a burden are reduced, and we feel this overall will present across the board 13 million small businesses a much better opportunity to grow and establish new businesses in the future.

So this is our main thrust to the extent it hinges on our programs, they reflect that type of thinking.

Senator WEICKER. Jim, every time I pick up the paper we reach new record highs as to the number of bankruptcy and failures of businesses, and you are giving me the same pitch your predecessor gave me. I honestly feel that it is your job to alert the administration of what the problems big business, might be of but for small businesses it is the end of the line. What worries me is that the smallest of the small businesses are on the verge of extinction. This is a great piece of timing in terms of potential capital to those businesses.

Mr. SANDERS. Well, I wish I had the wisdom to see all of the future turns of the ball, but I do believe, considering most of our direct lending effects, only about 4,000 small businesses are involved, which is a very small part of the universe.

I think we do have to look at it overall, we are specifically examining some recommendations on interest rates to see if there is some possible way that we can achieve some type of advantage, as small as it might be in the interest rate reductions we can pass on to the applicants in the guaranteed loan program. We can perhaps have a handle on that by next week.

Senator WEICKER. Recent information communicated to the staff indicates that utilization by small businesses of SBA's direct and guarantee loans is down substantially. In the first half of fiscal year 1982, only about 30 percent of the funds available for lending activities has gone out. If this rate continues, what do you anticipate the uncommitted balance at the end of the year will be?

Mr. SANDERS. We are running at about 30 percent where we normally should be about 50 percent, so we extend this on an even line, we will be about 40 percent below our planned program level for fiscal year 1982.

So we will not utilize 40 percent of our availability if we continue at this rate.

Senator WEICKER. I am a little concerned that maybe you are not trying to achieve de facto that has been imposed upon you by law?

When we arrive at appropriations in budgets, that is the end result of a long process usually of negotiations between the executive and legislative branches, and what we do not do is arrive there and then understand that on your side of the table you will try to achieve what was not achieved in the full constitutional process.

As you know, Congress has not cut loose of these programs, either direct lending or guaranteed, and has insisted on certain levels to be appropriated for that use.

So I am a little bit concerned as to what you are doing with what has been given to you by the Congress.

Would you like to respond to that?

Mr. SANDERS. Well, I think what you are saying in another sense is that you are disappointed we have not lent more money.

I do not know that we know exactly how much of the down-turn in lending has been reached from the higher interest rates that we are using today.

As you know, Mr. Chairman, one of the worst things you can advise a small businessman to do today is burden himself with a level of debt at 18 or 19 percent to start a new venture. That is the kind of economic times we have.

By the same token, we are also trying to eliminate the real lemons we had in lending in the past.

So maybe Mr. Holloway would like to speak, maybe he has a better idea how much of this down-turn is from the general interest rate level and how much is from our own practices.

Mr. HOLLOWAY. Mr. Chairman, I believe that we have a good chance of exceeding the overall 60 percent level for the year projecting 30 percent for the next 6 months. If we can just have the improvements in the economy that are forecasted, we believe there is a lot of pent-up demand, and I can tell you that nothing would please me more than to see that happen, and have that pent-up demand come in and let us help people that need the help in using this money that is available.

We would like to use this money on the basis that the people coming in want and need the money, can afford to pay the interest rate, and where the loan promotes their success.

Senator WEICKER. Since your appearance before the Small Business Committee during your confirmation hearing on March 9, my staff has again learned that there is a major proposal pending at the White House to take all of SBA's minority programs, except for the MESBIC program, and transfer them to the Department of Commerce—MBDA. Have you been consulted about, asked to comment on, or are you even aware of this proposal?

Mr. SANDERS. The report you received came about the same time when it came to my office, and I have not seen it put together, so as far as I am still concerned, it is still a rumor.

We have been consulted in the past about our ideas and our contributions to the study of a proposal to combine the minority program in the SBA, or combine it in the Department of Commerce or to do neither.

We have submitted to them our best thinking on the subject, and it was to the extent that we would support any kind of an effort that eliminated needless duplication in the minority lending operation or minority support operation.

At the same time, we felt that whatever kind of a program evolved from this, whichever direction it went, we had to rethink some of the basics that have made an embarrassment out of some parts of the activities in a minority program and not productive to the overall minority population.

Some of those things must be changed, and as you know, we have already instituted some of those changes to allow for smaller businesses to come into the program.

We feel the whole thing must be rethought and submitted back to Congress for some changes in the law, regardless of who administers it.

Senator WEICKER. I would only recommend to you that Congress be brought aboard as soon as possible, because I will tell you, you are going to find one big fire storm around here if somebody just throws the plan on the table.

The budget estimates that your debt collection efforts will yield $35 million and $110 million more than normal in business loan repayments for 1982 and 1983. Repayments will go from $196 million in fiscal year 1981 to $267 million in 1982 and to $374.7 million in 1983.

On what basis are these optimistic figures based?

Mr. SANDERS. Well, I think maybe I would rather have Mr. Carver speak to the basis of the projections.

Whenever you give me a hard one, I will pass it to the left or right.

Senator WEICKER. Then let me say one thing here. This is your year to enjoy this session. But next year——

Mr. SANDERS. That is very gracious, Senator.

Harry, how did we get this type of thing?

Mr. CARVER. Mr. Chairman, I think as a result of 275 additional people that you provided us earlier in the year, there is a feeling that through those efforts, particularly in the disaster areas, that they would be able to increase the dollar repayments of the farmers, particularly in the southeast; 99 of them were in the South, and the rest spread throughout the country.

Now, whether they are overly optimistic in 1983, I am really not too certain. Right now disaster repayments are running ahead of even our earlier projections before the additional amounts were added to it.

Because of the economy, the regular business loans, that rate is slightly less than the projection.

Senator WEICKER. I should think as long as the economy stays the way it is that will be the way of it.

SBA's management assistance programs are designed to address the predominant cause of most small business failure—lack of managerial know-how.

In view of the fact that the report on the state of small business in this country has documented unprecedented bankruptcies, how can you reduce your management assistance program by $8 million or 26 percent at this time?

Mr. SANDERS. You are speaking of 25 percent reduction in personnel?

Senator WEICKER. But that program is almost entirely personnel.

Mr. SANDERS. Well, that is true, most of the money expended there is for salaries, and it is management.

As you know, I am strong on the management program. I believe this is an area we should expand our activities. I have not swayed that given the constraints of the budget and how it works out with such special items as the SBDC, I am hopeful that we can maintain many strengths throughout the agency that is greater than 25 percent reduction would indicate.

In addition to that, whatever the final personnel application is, we are trying to, through such devices as the SBDC's, SCORE, trade associations, other private sector involvement community colleges, we are trying to leverage our outreach all the time and at the same time help upgrade it. I assure you management assistance would get a top priority from me.

Senator WEICKER. Your proposition of a pollution control guarantee program which involves the use of IDB's or IDB financing is one of SBA's most successful program in a money maker. Based on current comments it is clear the program can easily fund for 1983 qualified contracts amounting to $250 million, yet you are proposing $150 million program level.

Taking the heart out of the program by reducing the contracts that involve IDB financing is what it seems to me.

I would like to hear your rationale for this.

Mr. SANDERS. Well, first of all, as I think in the past, we have not come up to $250 million, have we?

Mr. HOLLOWAY. Last year it was about $100 million, I believe.

Mr. SANDERS. As you know, the pollution control authority situation is one which we will discuss with OMB, Mr. Chairman. There has been communication on the House side and OMB on this, and we are still working with them to provide for a response back to the Congress on this whole issue of the level and tax incentives.

Senator WEICKER. What kind of pressure do you have from the administration vis-a-vis the IDB aspect of this, since they indicated their opposition?

Mr. SANDERS. I must confess I have had no pressure and no contact on this subject in the 3 or 4 weeks I have been there. I certainly expect to have some contact with them on that subject.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. I have other questions that I will submit for response to the record.

What counsel has given to me is a followup and properly so of the oversight investigations that the committee has conducted of SBA programs, all of which were prior to your becoming the Administrator.

I will read this and then I would appreciate having a response by letter for the record within the next week.

I am now discussing the oversight investigations held by the committee. The committee found that due to favoritism SBA awarded 92 percent of its contracts on a sole-source basis. Since April 1980, when the committee held a hearing on SBA contracting, what steps has the agency taken to resolve the abuses in the agency's contracting procedures? In the past year, what has been the percentage of sole-source contracts awarded by the agency?

In September 1980, the Small Business Committee held hearings on the SBA farm disaster loan program. As a result of the committee's findings that millions of dollars in disaster loans were made improperly, SBA established a task force to identify and collect improper loan payments. What has the task force found to date, and how much has it collected?

Last month, the Small Business Committee held a hearing on the SBA surety bond program. The committee found that potentially millions of dollars had been squandered by the program. I received assurances that new resources would be pumped into the surety bond guarantee office to improve management of the program. What has SBA done at this point to reorganize and butress that office? What has the agency done to insure that some surety companies and contractors can no longer take advantage of the program?

I would appreciate a response to this particular question within the next week, and the rest you can respond to the record as soon as you can.

Mr. SANDERS. Yes, sir.

Senator WEICKER. Thank you all very much .

[The following questions were not asked at the hearing but were submitted to the Administration for response subsequent to the hearing:]

Additional Committee Questions

Question #1

The Committee found that, due to favoritism and other improper influences, SBA had awarded 92 percent of its contracts on a sole-source basis. Since April 1980, when the Committee held a hearing on SBA contracting, what steps has the agency taken to resolve the abuses in the agency's contracting procedures? In the past year, what has been the percentage of sole-source contracts awarded by the agency?

Answer:

The Small Business Administration has taken immediate action on Agency contracting procedures to include the following:

* The authority of the Contracting Officer was restored so that there was once again insistence upon adequate sole source justifications and adequate scope and proper statements from the program officials desiring contracts. Steps were taken to reverse the previous policy and to return to a policy of requiring competitive awards rather than continuing the trend of sole source procurement.

* Steps were taken to enforce the requirement for adequate lead time for the competitive process and to require adequate advance notification from program officials as to their contracting needs.

* The previous practice of allowing contractors to commence work without a properly signed written contract was immediately reversed, and there was restoration of the proper role of the Contracting Officer in negotiating and executing all contractual agreements.

* Agencywide notification was distributed restricting direct and premature contracts with contractors by program officials.

* A number of questionable consulting contracts were terminated.

* Procedures were established under which all requests for consultant type contracts are closely scrutinized by a Procurement Review Board to preclude unnecessary and excessive use of outside resources to perform essentially internal management functions.

* The trend towards inadequate involvement of the Office of the General Counsel in sole source procurement requests was reversed and procedures

were reinstituted to require OGC review for legal sufficiency prior to entering into negotiation.

* The Agency's Standard Operating Procedures applicable to the procurement process were totally rewritten resulting in guidance reflective of all of the necessary controls and proper practices attendant to the Federal Procurement activity.

In addition, we are pleased to report that for the 12-month period commencing April 1, 1981, through March 31, 1982, our record of sole source actions has improved markedly. In contrast to a 92 percent portion of contractual actions being sole source prior to this reporting period, the Agency experienced only a 57 percent level of sole source actions in the 12 months under consideration. Most importantly, however, is the fact that each of the 57 percent sole source actions received full review by the Office of General Counsel and was amply justified and the file documented accordingly.

Question #2

In September 1980, the Small Business Committee held hearings on the SBA farm disaster loan program. As a result of the Committee's findings that millions of dollars in disaster loans were made improperly, SBA established a task force to identify and collect improper loan payments. What has the task force found to date, and how much has it collected?

Answer:

One of the results of the September 1981 hearings on the farm loans was the consent of the Committee, as well as the Office of Management and Budget, to hire temporary employees to assist in the servicing and collection activities related to disaster home loans and disaster farm loans. Of approximately 275 authorized temporary personnel slots, 99 were allocated to the Atlanta region, which collectively had 24,000 farm loans and 17,000 home loans distributed unevenly among nine southeastern states. Each of the other nine regions were allotted certain numbers of temporary slots based upon relative numbers of the same type loans. Neither the 275 nor the 99 were represented to the Committee and OMB as a task force.

Our initial plan to select an additional 5,000 farm loans to review for possible duplications and excesses was to have involved a computer matching of our entire portfolio with records of three Department of Agriculture organizations. This plan was submitted for review by the Committee as well as to OMB in late October. Because of technical capability problems between our Univac and the Honeywell and International Business Machines computers of the United States Department of Agriculture, that plan was postponed and supplanted by another approach.

During the period January through May, we could reasonably expect that well over 5,000 individual farmers/borrowers would approach approximately 35 of our field offices in the Southeast, Midwest, and Southwest where approximately 90 percent of the farm loans exists. Interviews with those borrowers who are seeking deferments or subordinations, for example, are being accomplished to determine the amounts and extent of the problem. Reporting periods have been set forth for mid-April, mid-May and mid-June. One of the three regional reports has been received (Atlanta) with the other two expected. The results of the one report include the following:

Number of loans reviewed	1,240
Number of loans in which a duplicate benefit was found	461
Amount of benefits	$ 3,997,173
Amount of benefits repaid to SBA on demand	$ 239,964
Amount set up on term agreement to repay SBA	$ 402,722

The overwhelming majority of the duplications involved relates to grant monies from the Agricultural Stabilization and Conservation Service and is in the range of $4,000 to $9,000. Those amounts appear to have been duplicated in SBA loans ranging from $100,000 to $400,000. We do know from other details provided that the duplication problem did not occur either at all or to a very limited degree in the other two regions. We expect to be in a position by July to provide a comprehensive report on this entire effort.

Question #3

Last month, the Small Business Committee held a hearing on the SBA surety bond program. The Committee found that potentially millions of dollars had been squandered by the program. I received assurances that new resources would be pumped into the surety bond guarantee office to improve management of the program. What has SBA done at this point to reorganize and buttress that office? What has the agency done to insure that some surety companies and contractors can no longer take advantage of the program?

Answer:

Since the most recent Surety Bond Guarantee Program hearings, the Agency has taken the following measures to improve the management of the program and ultimately prevent abuses that have existed:

* Authorized five additional permanent personnel to be assigned to the Central Office operation. Recruiting is underway.

* Hired four cooperative business school students per semester from Northeastern University on a

full-time basis. The first four students arrived on April 5.

* Initiated steps to hire on an appropriate basis a surety claims professional to investigate questionable claims.

* Moved to put into final draft the surety treaty which is felt to be a major move in program control.

* Completed the rough draft for the underwriting and claims handbooks, moving them into the typing of clean drafts for necessary clearance.

* Scheduled a meeting of all Regional Surety Bond Guarantee Officers for June 14, 15, and 16 to initiate regular semi-annual meetings.

* Moved to bring into the Central Office, on a rotating basis, field office surety bond personnel for exposure to underwriting policy deliberations, observation of claims operations and problems, and experience as surety professionals on a national basis.

* Authorized the visit of a team of Central Office surety program staff persons to four sureties to review their operations. Seven more are scheduled by fiscal year end.

* Met with the executives of the Surety Association of America, A. M. Best Company, and the executive committee of The American Speciality Surety Council to exchange information and ideas regarding surety bonding.

* Initiated steps to obtain an assistant to the Chief of the Surety Bond Guarantee Branch via the Executive Exchange Program.

* Prepared a draft organization table of the Central Office SBG Branch to reflect additional personnel.

* Assigned on a continuing basis two or three personnel from other Agency elements to temporary duty with the SBG Branch for periods of 60-120 days.

* Moved to recentralize the Atlanta region for better and more efficient control in that region.

* Emphasized to all regions the importance of the Surety Bond Guarantee Program and necessity for proper staffing and oversight.

* Briefed the new Administrator with regard to the scope and importance of the Surety Bond Guarantee Program.

* One Central Office and one field office staffer are in training at a surety school sponsored by a large standard surety. This is an initial step in improving the training of all Surety Bond personnel.

* The clearance of the Standard Operating Procedures is complete but for one office. When all comments are collected, they will be evaluated and a completed document issued.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

STATEMENT OF CATHIE A. SHATTUCK, ACTING CHAIRMAN

ACCOMPANIED BY:

EDGAR G. E. MORGAN, ACTING EXECUTIVE DIRECTOR
RONALD P. PASSERO, BUDGET OFFICER

PREPARED STATEMENT

Senator WEICKER. Our next request is that of the Equal Employment Opportunity Commission. The amount requested is $144,937,000, a decrease of $5,222,000 and 49 FTE positions from the 1983 base.

Appearing on behalf of this request is Cathie Shattuck, Acting Chairman; and Cathie, why don't you introduce those you have brought with you. Your statement will be placed in the record at this point, and I would appreciate a summary so we can go on with the business of the questions.

[The statement follows:]

STATEMENT OF CATHIE A. SHATTUCK

Mr. Chairman and members of the subcommittee, I am Cathie A. Shattuck, Acting Chairman of the Equal Employment Opportunity Commission. With me are Edgar Morgan, Acting Executive Director, and Ronald P. Passero, Budget Officer.

The Commission's budget request for $144,937,000 and 3,327 staff-years as presented for fiscal year 1983 is designed to meet the Commission's objectives of enforcing the employment discrimination statutes it is charged with administering (Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act of 1967, as amended; the Equal Pay Act of 1963; and section 501 of the Rehabilitation Act of 1973), as well as exercising oversight and coorindation in the Federal Government so as to eliminate duplication, inconsistency, and unnecessary paperwork burdens imposed on employers in our jurisdiction.

This is the President's budget, reflecting limits on both our budget authority and employment ceilings. While the request is for level funding, it reduces by over $5 million the Commission's purchasing power for fiscal year 1983, and reduces by 49 the staff-years available to accomplish the agency's mission.

At the beginning of this fiscal year, we anticipated receiving nearly 7 percent more title VII, Age and Equal Pay Act charges in fiscal year 1983 than in fiscal year 1982 and expected to close approximately the same proportion in fiscal year 1983 as in fiscal year 1982. Our preliminary data, however, for the first 6 months of the current fiscal year indicate that the rate of intake may be leveling off. While this would appear to be a positive sign toward reducing our caseload inventory, the time necessary to process new charges to closure may increase and our settlement rate could decline, due to hardened attitudes on the part of both charging parties and respondents. Thus, the average time to process new charges may increase by approximately 1 month, to 8½ months.

This budget will also impact on our legal enforcement activity. The number of Commission-initiated investigations of classwide charges of employment discrimination was anticipated to remain stable from fiscal year 1982 to fiscal year 1983. The 22-percent reduction in funds allocated for litigation support would necessitate, however, a reduction in the number of lawsuits to be filed, and will impact on the number of Commission-initiated charges, consent decrees, and settlements to be obtained. Further, we

expect to have difficulty providing litigation support to cases already in litigation, as well as those filed in fiscal year 1983.

We, of course, recognize the need to operate as efficiently as possible, and continue to evaluate our headquarters operations and field support functions to determine where improvements and economies can be made. However, the Commission cannot, of course, continue to absorb the increases in its nondiscretionary costs, such as payroll, postage, telephones, and office space, and remain at level funding without a serious effect on its ability to fulfill its mission. These nondiscretionary costs consume nearly 84 percent of our budget.

Of the remaining $23.5 million, $18 million is earmarked for funding State and local fair employment practices agencies, leaving only 3.8 percent, or $5.5 million, of our budget for funding litigation support, employer surveys, our management accountability system, and other contract and support activities, which is a decrease of 37 percent from fiscal year 1982.

There is another matter I am sure is of interest to the subcommittee. This is the General Accounting Office's interim report, released last fall, which highlighted certain problems in the Commission's financial operations. I assure you that the Commission is taking action to address the deficiencies identified by GAO, including training, staffing of key vacant positions, setting up and systematically monitoring the collection of unused travel advances, resolution of errors in the accounting system, the timely collection, depositing and payment of funds, and on a continuing and ongoing basis, analyzing and evaluating the performance and cost effectiveness of our field operations.

I would be happy to answer any questions you may have.

INTRODUCTION OF ASSOCIATES

Ms. SHATTUCK. This is Michael Connally, the General Counsel of EEOC; on my immediate left is Edgar Morgan, Acting Executive Director; and next to him is Ronald Passero, our Budget Officer at the Commission. And also here is Commissioner Rodriguez sitting behind us.

FINANCIAL STATUS

As you noted, our budget request is less than last year's. This is the President's budget, and the major change that we see is the impact that this budget would have on our legal enforcement activities. The number of Commissioner initiated investigations was anticipated to remain stable during fiscal year 1983, but there is a 22-percent reduction in this budget in funds allocated for litigation. That will, of necessity, create a reduction in the number of lawsuits to be filed and will probably impact on the number of Commissioner initiated charges, consent degrees, and settlements that we obtain.

We also expect we may have some difficulty providing litigation support to cases already in litigation, as well as to those filed in fiscal year 1983.

We are taking action to cut costs at every level within the Commission, and are also instituting programs suggested by GAO in their report of last year to get the accounting system straightened out.

I am delighted to inform the committee that we do know approximately how much money we have currently, which is a "first," and we are very pleased. We have the first quarter completed and reconciled; the second quarter is completed and in the process of reconciliation. So we are able to have a handle on expenditures on a month-to-month basis, which is an effective management tool.

PROGRAMMATIC IMPACT

Senator WEICKER. I gather from your statement, particularly the paragraph at the bottom of page 2, that you are a little apprehensive as to the amount being allocated since the Commission was able to perform its statutory mandate.

Ms. SHATTUCK. Yes; we have obligated ourselves to the lawsuits already filed, and the cut is going to make us have to draw back.

At the same time, though, offsetting that to a small degree this year is the fact that the number of charges being filed by individuals is leveling off. We saw that occur back in 1974, and based on this experience, the number of charges filed will probably pick up again when the economy starts improving.

Senator WEICKER. Is it the enforcement aspect of your Commission responsibilities that you have some qualms about?

Ms. SHATTUCK. That is really it, yes. There is a major cut in the litigation support area.

Senator WEICKER. In both personnel and money?

Ms. SHATTUCK. Yes; and it will be impacted in that regard, because if we do not have the money for enforcement, then we cannot justify keeping the staff ceiling at its current level.

Senator WEICKER. What is the personnel reduction in enforcement?

Ms. SHATTUCK. We have not yet done that because we have been trying to reallocate those positions.

In enforcement, our attorneys are different than in a lot of agencies, because they do not only try lawsuits, they also act as advisers in the district offices and help the investigators do their investigations, supervising them on legal matters; half of their duties are occupied in that manner.

So in terms of having to reduce the number of attorneys, we may not have to, but we may have to reassign and consolidate functions in that area.

Mr. MORGAN. If I may, what we have done here, is an intense analysis in the last 5 weeks since we have been in the position to do this; we are seeing a need for a shift from what is perceived to be the normal compliance process, that is, investigating individual charges, to moving more in the area of litigation; and so the total, overall ceiling for this Commission may be appropriate. It is simply that there may be a need for more litigation activities and less need for some staff currently investigating charges.

And that is the dilemma we are in. We are perceiving a leveling off of charge receipts. The leveling off may be influenced by the situation of the economy, we are not sure today.

Senator WEICKER. The reduction is $4,039,000 in enforcement activities?

Ms. SHATTUCK. That is correct.

Senator WEICKER. Well, I would expect, I would want to take a hard look at that figure. That is a matter of major concern.

It is the basis for your operation and to cut that—well, you might as well put your whole operation there.

All right, we will take a look at that.

GAO INTERIM REPORT

You have raised the subject of the GAO interim report indicating problems within the Commission.

Please elaborate on the extent of these problems and tell us what actions have been taken to address the difficulties.

Ms. SHATTUCK. First of all, we have staffed the key vacant positions in the management side and gotten some training done in that area. We have done analyses of the computer and data processing operations relating to our field offices and headquarters, and we have gotten that operational.

We are now at a point where not only are the books posted on a regular and timely basis by the 10th of every month after the accounting month ends, but our internal auditor is also following right along behind that process, so that if any changes have to be made, or any adjustment made or mistakes corrected, that can be done promptly.

That, I think, is going to prove very effective in terms of knowing where our resources are for programmatic responsibilities.

We have tightened up the use of travel advances. We are also instituting a program of collection under contracts where we have moneys due us that have been allowed to slide.

And we are also taking a look at the way our information comes from the field office to headquarters, because there may be a way to more efficiently do that. We have not come up with a total recommendation at this point, but we are studying it in terms of the monetary flow. Those are some things we have been doing.

Mr. MORGAN. Another thing is that our internal audit office has been operating under very serious constraints and limitations. Commissioner Shattuck has authorized a new directors position to be created at the SES level as well as five new positions in that office, so that we will have within house, whistleblowing capability, on a far more timely basis which is critical; had we had that capacity before we would have been able to correct some of these deficiencies rather than having the GAO come in and point them out to us.

Ms. SHATTUCK. Also, we are going to have books that GAO can look at, and that was one of their major complaints, that they could not audit our books.

Mr. MORGAN. We will go to the committee very shortly.

CONGRESSIONAL BLACK CAUCUS

Senator WEICKER. I received a letter this morning from Walter Fauntroy, chairman of the Congressional Black Caucus. It is not my practice to ask questions on behalf of others, but I think the gist of what is contained in that letter might be communicated to you, for some sort of general response on your part.

I might add I was pleased to see your concern about the enforcement funds, it clearly shows a commitment on your part there.

Let me read two pertinent paragraphs without getting into the specifics here.

> Recent developments at the EEOC harken back to the days when the agency suffered from internal chaos; charges of racial motivations for hiring, placement or promotion; inadequate, politically-motivated management; and lackluster professional performance.

Then he goes on to state:

> Most serious of all, these personnel changes in offices charged with execution of title VII policy as enunciated by the courts seem calculated to fundamentally alter affirmative action policy and progress. Policy and litigation efforts have virtually halted, and charges have surfaced that the agency will be cut in half by the end of this fiscal year.
>
> The caucus cannot accept these developments; it is a de facto dismantling of the most important Federal civil rights agency. In our view—and in the view of many other civil rights and women's groups—this is yet another indice of racial insensitivity and desire to severely retard civil rights progress.

Now, I will submit the letter and the questions to you for specific response for the record.

Ms. SHATTUCK. We will be happy to follow up on that.

Senator WEICKER. These questions will be submitted on behalf of Delegate Fauntroy for the record; that does not mean I agree or disagree, because I imagine the letter was written so that these matters will come to the public attention and it is as good a time as any for you to respond.

Ms. SHATTUCK. We will be happy to reply.

Senator WEICKER. Would you like to reply in general?

Ms. SHATTUCK. We can briefly, yes.

With respect to those allegations, I do not feel that there has been a racial motivation at all. Now there has been a reduction of cases that have been recommended for litigation, and that is due to several factors.

First of all, as I understand it, Senator, the General Counsel's Office is keeping a very tight rein on its resources since if we are going to have the financial support for litigation we already have, we are not going to be able to file as many cases in fiscal year 1982. That is a hard economic reality; our costs have gone up.

We feel we can support 100 more lawsuits filed this year, not 30 or 40 a week, which had been the case.

EEOC PERSONNEL CHANGES

Senator WEICKER. A greater complaint there deals with those persons who have been let go, a disproportionate number of blacks and Hispanics.

Ms. SHATTUCK. We have not terminated any person at the Commission. There have been some transfers within the General Counsel's Office for more effective management. The people who were reassigned were from the General Counsel's Office, and they accepted their reassignments. I received calls from many people who were delighted to be reassigned; they saw it as a move up in their career and a new challenge.

There also have been temporary assignments to clean up the Federal Review and Appeals Office here at headquarters, that was a white man who was assigned over there. That office is now undergoing a change on top of everything else.

But there have been no career employees discharged by the Commission since I have been there.

Mr. CONNALLY. There have been two employees discharged, attorneys. Both discharges occurred in the regional offices, but we at headquarters had no input into these decisions.

In regard to the most recent personnel changes, none—no individual was terminated.

Mr. MORGAN. Or reduced in grade.

And if I might, because I have a sense of historical perspective—I was with the Commission from 1974 to 1978, and then back now for another year—the eight or nine changes that were made in the General Counsel's Office were done simply to infuse new blood or relocate people to give them a fresh look at perhaps some old situations. It is just a standard management technique.

I happened to discover this morning that in 1978 Chairman Eleanor Holmes Norton made 40 personnel changes within 1 week. I was amazed to discover that, and I would imagine something of that magnitude would have an unsettling effect upon the personnel, since we are very labor-intensive due to the type of work we do.

But regarding the story that was mentioned in the Washington Post this morning, we can give you information on the ethnic background of all those changes, and I am sure you would conclude there is no racial motivation there.

Senator WEICKER. I want to make one thing clear, because I had a chance to look at this, and I think the indication of your willingness to perform this job with whatever is needed was indicated in her opening statement. I do not think any innuendos are made here.

Ms. SHATTUCK. I appreciate that.

Senator WEICKER. If there are specific problems here, fine, we will submit these questions and you can respond to them. But I want to make it clear from my viewpoint that I take second place to no one on my dedication to civil rights. Sometimes my rhetoric does get a little harsh with those not committed, but I do not think that lies with the chairman at all.

ADDITIONAL COMMITTEE QUESTIONS

The rest of the questions will be submitted for the record and I would appreciate a response to the questions raised by us.

Thank you very much.

[The following questions were not asked at the hearing but were submitted to the Commission for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LOWELL P. WEICKER, JR.

THE COMMISSION'S BUDGET PROPOSES A 22 PERCENT REDUCTION IN LITIGATION SUPPORT. YOUR STATEMENT SAYS THIS WILL NECESSITATE A REDUCTION IN THE NUMBER OF LAWSUITS TO BE FILED AND WILL AFFECT CASES NOW IN LITIGATION. PLEASE BE MORE SPECIFIC.

a. WHAT TYPES OF CASES WILL BE AFFECTED? HOW WILL THIS CHANGE PRIORITIES?

b. HOW DOES THIS AFFECT THE COMMISSION'S ABILITY TO FULFILL ITS MANDATED RESPONSIBILITIES WITH RESPECT TO ENFORCEMENT AND THE RESOLUTION OF DISCRIMINATION CASES?

The Commission has pending in Federal court in various stages of litigation some 25 large class-action cases under the Age Discrimination in Employment Act, the Equal Pay Act and Title VII of the Civil Rights Act of 1964, as amended, that require substantial litigation support funds to adequately prosecute them.

Given the financial demands of these cases, and assuming a higher-than-average settlement rate of pending cases, our best estimate is that the reduced litigation support budget will enable us to file approximately 100 new cases in FY 1983. However, the number of cases in our existing docket will not be substantially reduced in FY 1983 because of the time it presently takes suits to move through the litigation process. We expect to be more selective in the cases brought, in an effort to maximize the impact of those that we do file. Priority consideration will be given to larger cases where the impact of the change in an alleged discriminatory practice or policy will be greatest, i.e., where relief will be afforded to the largest number of affected class members. Within our limited resources, we will also continue to file cases seeking relief for single individuals, where warranted. Within this context, we will set defined standards for cases recommended for litigation to assure that we obtain the most effective enforcement from our litigation support funds.

It is possible that knowledge of our limited resources to continue to file the number of suits that we have filed during the past several years could adversely affect our ability to obtain conciliation agreements and settlements in the administrative process, thereby adversely affecting the overall level of voluntary compliance, which is the essential foundation of all three statutes.

YOU HAVE INDICATED IN YOUR OPENING STATEMENT THAT THE RATE OF CASE INTAKE MAY BE LEVELING OFF. THE BUDGET, FOR INSTANCE, IS PREDICATED ON 49,000 NEW TITLE VII CASES IN 1982 AND 53,900 IN 1983. DO RECENT FILINGS REFLECT A LOWER NUMBER? WHY DO YOU BELIEVE FILINGS ARE DECLINING?

a. CAN YOU PROVIDE, FOR THE RECORD, INFORMATION ON WHAT THE CURRENT NUMBER OF FILINGS IS ESTIMATED TO BE?

b. DO YOU ANTICIPATE THAT THE INCREASE IN CHARGE INVENTORY WILL BE LESS THAN THE 8 1/2 MONTHS INDICATED IN THE BUDGET?

Current intake data through the second quarter of FY 1982 indicate a slight decline in charge receipts. Using half-year totals, a comparison of intake figures for the first six months of FY 1982 and the first six months of FY 1981 indicate an overall 11 percent decrease (24,220 charges to process so far this fiscal year compared to 27,192 during the same time period in FY 1981). It should be noted, however, that intake is generally lowest during the first quarter of the fiscal year, and this fiscal year was no exception. In fact, intake rose 19.9 percent (from 11,180 to 13,040 charges) between the first and second quarters this year, although it is still slightly lower than last year at this time.

In FY 1981 the agency received 54,418 charges to process. To date, we have received 24,220. Therefore, we can estimate, based on the above analysis, receiving somewhere between 50,000 and 54,000 charges, or level intake.

In our view, the downturn in the nation's economy has had an adverse impact on the number of charge filings. It is felt that because of limited employment opportunities, both in terms of hiring and promotion, individuals are more hesitant about pressing their employment rights. Also, as more people become unemployed, on-the-job situations where discrimination might occur certainly diminish. We

are now in the process of an in-depth study of our intake figures to determine what, if any, trends exist as to the type of charges that are falling off.

We anticipate that the increase in charge inventory will be approximately eight months. We also anticipate eliminating the backlog in FY 1983.

YOU INTEND TO ELIMINATE THE TITLE VII CASE BACKLOG IN FISCAL YEAR 1983. PLEASE DESCRIBE HOW YOU INTEND TO ACCOMPLISH THIS WITH A PROPOSED $5 MILLION REDUCTION FROM YOUR FY 1982 PROGRAM LEVEL BUILT INTO YOUR REQUEST?

We anticipate that there will only be 4840 charges in the backlog inventory at the beginning of FY 1983. In FY 1982 we project that we will have closed 11,115 backlog charges, with 105 staff. At this rate, the agency will only need 46 people to eliminate the rest of the backlog by the end of FY 1983.

YOUR PROPOSED BUDGET REFLECTS A 54 PERCENT DECREASE IN FUNDING FROM 1983 BASE FOR SURVEYS. PLEASE EXPLAIN THE TRADITIONAL FUNCTION OF SURVEYS IN EEOC OPERATIONS AND THE CHANGES THAT WOULD OCCUR WITH THE PROPOSED REDUCTION.

The Commission's survey program is designed to collect employment data by race and ethnic categories, sex, and broad job categories from all employers subject to Title VII (private employers, unions, state and local governments, apprenticeship committees and educational institutions).

These data are not elsewhere available and serve the needs of the Commission in its investigative, conciliatory, litigative, and systemic program functions. The data are shared with other Federal, state and local government agencies having equal employment opportunity functions, thereby eliminating duplicate collection of similar data. The Commission, therefore, has an obligation to conduct these surveys to meet not only its own data needs but also those of other agencies who rely solely on the data collected in EEOC surveys. Curtailment of the survey effort, therefore, could affect Federal, as well as state and local employment opportunity efforts.

Each of the Commission's surveys is also the primary source for employment data of at least one other Federal agency, (i.e., Treasury [EEO-1], Labor [EEO-1,2, 2E and 3], Education [EEO-5 and 6], Justice [EEO-1 and 4], and HHS [EEO-1]), each of which would have to initiate its own data collection program if the Commission were to curtail its survey programs.

Continued effort has been made to minimize both the cost of the survey program as well as the respondent burden imposed by the surveys on the employers. However, a substantial reduction in its budget could impact on the Commission's ability to meet its joint data-collection obligations.

YOU STATE THAT THE FOCUS IN EMPLOYMENT DISCRIMINATION IS TURNING TO PRACTICES AND POLICIES WHICH AFFECT PROTECTED GROUPS ADVERSELY AND WHICH MAY PERPETUATE PAST DISCRIMINATION.

PLEASE DESCRIBE THESE CURRENT FORMS OF DISCRIMINATION IN THE WORKPLACE. HOW DOES THIS AFFECT YOUR ABILITY TO RECOGNIZE AND REMEDY DISCRIMINATION PRACTICES?

There is far less overt, intentional bias now than was the case 10 or 15 years ago, when minorities and women were often totally excluded from certain jobs or present only in token numbers. Today, many of the most serious problems stem from employment practices whose discriminatory effect is unintended, as where minorities are disproportionately excluded by general aptitude tests or women by height requirements. If an aptitude test is measuring test-taking ability rather than ability to learn the job, or a height requirement is not justified by the job's actual duties, then any substantial adverse effect of the standards on minorities or women is held to be unlawful discrimination. Investigation of this type of discrimination can be difficult, as it often involves complex statistical analysis and may also include review of sophisticated studies prepared by industrial psychologists to justify the standards in question.

Another difficult situation we frequently confront today arises when employment officials are afforded significant discretion to make hiring, promo[illegible]

charge decisions based upon their subjective evaluations of applicants and employees. It is an unfortunate aspect of human nature that many of us permit stereotyped views of minorities or women to affect our decisions, or place a greater emphasis on certain personality, appearance, or background characteristics when considering minority or female candidates than when a white male is involved. Often we do this subconsciously, believing we have been fair in our judgments. Identifying discrimination of this sort is understandably difficult, involving a combination of statistical evidence, comparisons of the apparent qualifications of persons of different races, sexes, or ethnic backgrounds, and considering of the employment officials' explanations for their actions.

Finally, we still frequently encounter employment policies which perpetuate past discrimination. For example, minorities or women in the past may have been concentrated by an employer in its lower-paying, dead-end jobs, and continue to be unable to move out of them because the employer currently maintains policies which discourage transfers to better jobs. While problems of this type are usually not difficult to recognize, it is often difficult to determine whether the protection afforded "bona fide seniority systems" by Section 703(h) of Title VII applies to the situation in question.

The Commission encounters a number of difficulties when attempting to remedy the types of discrimination discussed above:

—The applicable legal principles are usually complicated and frequently not completely settled.

—Employers often believe their policies to be fair and resist changing their traditional ways of conducting their personnel activities.

—It may be difficult to identify or devise non-discriminatory, alternative approaches that fill the employer's legitimate needs.

—There may be a large class of persons presumptively entitled to back pay and other individual relief.

A REDUCTION OF 55 PERCENT IS PROPOSED IN FUNDING FOR HEADQUARTERS AND FIELD SUPPORT. PLEASE EXPLAIN THE REASON FOR THE REDUCTION AND WHAT SPECIFICALLY IS AFFECTED.

The Commission's FY 1983 budget requires it to absorb large increases in mandatory items such as rent, telephones and the October 1981 pay raise. This could only be done by shifting resources from controllable areas, such as Civil Service training, personnel security investigations, building alterations, maintenance of equipment and commercial training and services.

YOU INDICATE THAT THE MANAGEMENT ACCOUNTING SYSTEM, WHICH IS INTENDED TO ENSURE THAT ALL EEOC DIVISIONS ARE HELD ACCOUNTABLE FOR RESULTS, HAS BEEN COMPLETED AND IMPLEMENTED.

a. WHAT TYPE OF RESULTS ARE YOU LOOKING FOR IN CHARGE PROCESSING WHICH IS BASICALLY AN INVESTIGATIVE RATHER THAN RESULTS ORIENTED PROCEDURE?

The Commission's compliance procedures emphasize speedy and amicable resolution of charges. This is consistent with Title VII's emphasis on voluntary settlement and with the Commission's commitment to serve the public effectively. In addition, the Commission is committed to reducing the backlog outstanding as of January 1979, as well as keeping as current as possible with new charges. This requires rapid processing of cases and maximum output by each employee. Results in these critical areas are measured by careful monitoring of performance indicators (PI's) designed to track the quantity, quality and timeliness of the work product.

b. WHAT EFFECT WILL PROPOSED BUDGET REDUCTIONS HAVE ON THE IMPLEMENTATION OF THE SYSTEM?

The proposed budget reductions may directly impact on further development and capacity of the Commission's management accountability system. Since

full implementation of this system, i.e., the management information system portion, depends on interagency agreements for use of their computer facilities, budgetary cuts will impact on those phases of the process which are machine-dependent. The agency may have to alter the types and frequency of computerized output reports for all charge- and case-processing and for budget execution.

THE UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES WERE ADOPTED BY EEOC AND FOUR OTHER FEDERAL AGENCIES IN 1978. THE GUIDELINES DESCRIBE HOW EMPLOYERS SHOULD USE TESTS IN MAKING EMPLOYMENT DECISIONS.

HAVE YOU TAKEN ANY STEPS TO REVISE THE GUIDELINES IN RESPONSE TO THE WIDE CRITICISM OF THEM?

The review of these guidelines requested by the Presidential Task Force on Regulatory Relief has not yet begun. A new work plan for accomplishing the review must be developed in conjunction with OMB.

GAO STATED IN THEIR 1981 REPORT THAT LEGAL STAFFING OF DISTRICT OFFICES APPEARED EXCESSIVE.

HAS AN EVALUATION OF LEGAL UNITS RESOURCE ALLOCATIONS BEEN MADE SINCE THIS TIME? HAVE ANY CHANGES BEEN MADE IN LEGAL STAFFING AS A RESULT?

The Commission completed an in-depth study of the allocation of legal staff in its field offices last summer, but concluded that GAO improperly assessed the per-attorney workload, since it did not take into consideration that 15 to 20 percent of a field attorney's time is spent in the administrative process, which includes examining charges for their litigation-worthiness, or that not all field attorneys should be counted, since Regional and supervisory attorneys do not handle individual suits. On that basis, Commission calculations show that the actual workload per attorney is eight cases, in addition to the advisory and administrative assistance given to other units in the office. Consequently, no reassignments or changes were made as a result of this review.

Questions Submitted by Senator Ernest F. Hollings

IN YOUR FY 83 BUDGET SUMMARY, YOU ONLY GIVE TOTAL FIGURES COMPARING FY 81, 82, 83 BASE AND 83 ESTIMATES FOR EACH OF THE THREE BUDGET PROGRAMS. BUT YOU ONLY GIVE US 83 ESTIMATES WHEN YOU SHOW A BREAKDOWN BY OFFICE FOR EACH PROGRAM. WOULD YOU PLEASE PROVIDE COMPARISON FIGURES FOR THE OFFICE CATEGORIES AS WELL SO WE CAN SEE WHERE ANY CUTS ARE BEING MADE?

The following table is submitted:

	FY 1981		FY 1982		FY 1983	
	FTE	Amount ($000)	FTE	Amount ($000)	FTE	Amount ($000)
Policy and Executive Director						
Chairman	5	$ 270	10	$ 400	10	$ 413
Commissioners	18	802	20	891	20	898
Executive Director	13	610	10	422	10	412
Policy Implementation	40	1,357	38	1,412	37	1,433
Interagency Coordination	25	921	20	737	19	752
Program Planning & Evaluation	89	3,659	76	4,471	74	3,806
Audit	5	196	8	297	8	302
TOTALS	195	$ 7,815	182	$ 8,630	178	$ 8,016

	FY 1981 FTE	FY 1981 Amount ($000)	FY 1982 FTE	FY 1982 Amount ($000)	FY 1983 FTE	FY 1983 Amount ($000)
Enforcement:						
District and Area Offices	2,845	$106,961	2,718	$116,953	2,578	$118,287
General Counsel	122	5,120	109	4,726	106	4,378
Field Services	103	5,289	84	3,358	82	3,107
Systemic Programs	98	4,010	70	3,141	68	2,882
Review and Appeal	49	1,849	46	1,748	52	1,952
Government Employment	26	1,345	20	749	19	722
TOTALS	3,243	$124,574	3,047	$130,675	3,005	$131,328
Program Support and Administration						
Administration	126	$ 3,739	108	$ 3,788	106	$ 4,076
Congressional	10	335	8	315	8	339
Public Affairs	19	790	14	657	14	568
Equal Employment Opportunity	19	622	17	674	16	610
TOTALS	174	$ 5,486	147	$ 5,434	144	$ 5,593
TOTAL EEOC	3,612	$137,375	3,376	$144,739	3,327	$144,937

ON P. 2 OF YOUR BUDGET SUBMISSION, YOU STATE THAT EEOC CAN'T STRESS ENOUGH THE IMPORTANCE OF AVOIDING A BACKLOG OF CHARGES WHICH HAS HISTORICALLY PLAGUED THE AGENCY, YET ON P. 15, YOU SAY THAT NEW CHARGE INVENTORY WILL REACH 47,100 CHARGES OR 8 1/2 MONTHS OF ANNUAL RECEIPTS DURING FY 83 AND CONTINUE TO GROW EACH SUBSEQUENT YEAR.

a. WHAT ARE YOUR REASONS FOR YOUR SEEMING FAILURE TO ADDRESS THIS PROBLEM?

b. ARE THERE SPECIFIC PROBLEMS THAT WILL BE CAUSED BY THIS INCREASE AND WHAT ARE YOUR PLANS TO DEAL WITH THIS SELF-PROCLAIMED PLAGUE?

During FY 1981 the Commission lost a significant number of staff. Nonetheless, considerable progress has been made in the area of inventory reduction, as productivity in FY 1982 continues to be high. Coupled with the decrease in receipts thus far in FY 1982, the actual new-charge inventory will probably reach eight months, rather than eight and one-half months. While this size of inventory is still substantial, we do not view it as a crisis.

The primary problem resulting from a large inventory is an older and aging inventory. This, in turn, causes the average processing time to increase. The overall settlement rate will likely fall as attitudes harden on the part of both charging parties and respondents as cases get older. Further, the number of administrative closures may increase as charging parties withdraw complaints, lose contact with the Commission, and request right-to-sue letters because they become impatient with processing delays.

Our plans to address this problem will include an emphasis on productivity. In addition, we are reviewing present procedures in terms of streamlining and making the Commission more efficient.

IN THE FEDERAL SECTOR, YOU SHOW THAT THE HEARING SETTLEMENT RATE BE MAINTAINED AT 20%, WHICH IS BELOW THE LEVELS OF TITLE VII, ADEA, & EPA.

ARE THERE SPECIFIC PROBLEMS INVOLVED IN INCREASING THIS SETTLEMENT RATE WITHOUT ENCOURAGING STAFF TO SETTLE JUST TO MEET THEIR GOALS?

There are several reasons why settlement rates are lower for Federal sector EEO complaints than for non-Federal EEO complaints.

In the private sector, EEOC controls the administrative process, from intake to close-out. In the Federal sector, however, EEOC deals with complaints only during the hearing stage, which occurs after the completion of intake, investigation and conciliation efforts by the respondent Federal agencies. Those complaints that are most amenable to settlement or resolution on the merits have already been settled or resolved by the time they reach EEOC. In addition, by the time our complaints examiners receive the hearing request, the complaint

is usually at least six to nine months old. In fact, it is not unusual for us to receive complaints that are as much as one to two years old. The older a complaint gets, the more polarized the parties become and the more unwilling they are to settle the complaint. Consequently, it is much more difficult to settle a Federal sector complaint by the time it comes before us for hearing than it is to settle a non-Federal case.

In summary, although we do not rule out the possibility of modest increases in our settlement rate of Federal sector cases at the hearing stage, we do not expect that it will ever equal our settlement rates of non-Federal cases.

GIVEN THE PAST STUDY (SIC) INCREASES IN CHARGE/COMPLAINT RECEIPTS, IS IT REASONABLE TO ASSUME AS YOU DO THAT IN ALL CATEGORIES THEY WILL LEVEL OFF AT THE END OF 1983?

Our most recent data (the first half of FY 1982) show an overall decrease of 11 percent in receipts, compared to the first half of FY 1981. We do not anticipate this decrease to be a harbinger of a continuing decline in intake, however. Rather, we view it as an indication of an ultimately level intake by the end of the fiscal year for two reasons. First, traditionally, the agency's intake is always lower in the first quarter of the fiscal year compared to the remaining quarters. Further, we have not yet analyzed the receipts by statute (Title VII, Equal Pay and ADEA), but raw figures show that although Title VII charges have declined, ADEA receipts have increased. Secondly, a slight upturn in the economy and the employment rate for the remainder of the year would mitigate against a further decline. Overall, then, we believe that the fluctuations of charge filings under each statute, the economy and the slightly skewed data because of first-quarter FY 1982 figures all point to level receipts by the end of FY 1982 and through FY 1983.

YOUR FY 83 BUDGET REQUEST SHOWS RATHER LARGE CUTS IN SUPPORT SERVICES TOTALING $3,000,000.

a. HOW DO YOU EXPECT TO DEAL WITH THIS LOSS OF SUPPORT AND WHAT STRAINS WILL THIS PLACE ON CURRENT STAFF?

b. DOES THIS LOSS OF SUPPORT REFLECT ITSELF IN ANY WAY IN THE INCREASE IN CHARGE INVENTORY?

The loss of support services will have little or no negative impact on the current staff or on charge inventory. The funds were shifted from controllable items to those we have no control over, such as telephones, rent, postage, etc.

ON PAGE 2 OF YOUR BUDGET SUBMISSION YOU STATE THAT EEOC WILL RECEIVE ABOUT 100,000 CHARGES THIS FISCAL YEAR.

a. THE BASIS FOR THIS STATEMENT IS NOT CLEAR SINCE IN FISCAL YEAR 1981 EEOC RECEIVED ONLY ABOUT 56,000 CHARGES. WHY DO YOU BELIEVE CHARGE FILING WILL INCREASE SO MUCH?

b. DOES THE 100,000 INCLUDE CHARGES FILED WITH FEP's? IF SO, WHY, SINCE EEOC DOES NOT PROCESS THESE, AND IS LESS INVOLVED WITH THEM UNDER THE FEP CERTIFICATION PROGRAM?

Yes, the 100,000 figure includes dual-filed charges, which are, in fact, part of EEOC's receipts, and of that number, State and local fair employment practices agencies, under contract to EEOC for a total $18.5 million, are expected to resolve some 40,000 in FY 1982. Calculations regarding EEOC's workload, staffing and budget are based on charges EEOC will process, as indicated in Tables 3, 4, 5 and 6 of our budget document.

ON PAGE 2 OF YOUR BUDGET YOU STATE THAT DEMONSTRABLE PROGRESS HAS BEEN MADE IN ELIMINATING EMPLOYMENT DISCRIMINATION. YET YOU ALSO STATE THAT INTENTIONAL DISCRIMINATION "REMAINS AN UNFORTUNATE PHENOMENON IN THE AMERICAN WORKPLACE". THESE TWO STATEMENTS APPEAR CONTRADICTORY, AND THE LATTER STRONGLY IMPLIES THAT INTENTIONAL EMPLOYMENT DISCRIMINATION IS STILL A MAJOR PROBLEM.

a. IS INTENTIONAL DISCRIMINATION REALLY AS PERVASIVE AS YOU IMPLY, OR IS IT CONFINED TO CERTAIN TYPES, SUCH AS AGE?

b. WHAT DATA DID YOU HAVE TO SUPPORT YOUR BELIEF: I.E., GENERAL STATISTICS ON EMPLOYMENT PROFILES, ETC.?

Discrimination in employment on the basis of race, sex, color, age, religion and national origin is unlawful, whether the practice involves disparate treatment (discriminatory on its face) or disparate impact (neutral on its face but resulting in unequal treatment of one or more protected group). An analysis of the Commission's litigation statistics shows that EEOC filed 24 percent more lawsuits in FY 1981 than in FY 1980, and the Commission's present caseload numbers in excess of 900.

Disparate-treatment cases, which are based in major part on statistical evidence constitute approximately 80 percent of those filed by the Commission, and the remaining 20 percent involve disparate impact, which the courts have held constitutes discrimination as a matter of law. In bringing a case involving discriminatory impact, the Commission requires not only statistical evidence but a showing of overt discriminatory practices as well.

Commission suits have always been only the tip of the litigation iceberg, inasmuch as the statutes we enforce expressly encourage private suits. The fact that the Commission litigates less than one percent of charges received is more a reflection of budgetary constraints than enforcement need.

ON P. 2 OF YOUR BUDGET SUBMISSION YOU STATE THAT THE FOCUS IN EMPLOYMENT DISCRIMINATION IS TURNING TO PRACTICES AND POLICIES WHICH AFFECT PROTECTED GROUPS ADVERSELY AND WHICH MAY PERPETUATE PAST DISCRIMINATION.

a. WHAT ARE THESE FORMS OF DISCRIMINATION?

b. IS THE IDEA OF "COMPARABLE WORTH" AMONG THEM?

c. WHY ARE THESE FORMS OF DISCRIMINATION MORE DIFFICULT TO DISCERN AND TO REMEDY?

See the answer to question 5 submitted by Chairman Weicker.

ON P. 7 OF YOUR BUDGET REQUEST YOU LIST AS AN ACCOMPLISHMENT THE IMPLEMENTATION OF THE MANAGEMENT ACCOUNTABILITY SYSTEM (MAS) WHICH ENSURES THAT ALL EEOC PROGRAMS ARE HELD ACCOUNTABLE FOR RESULTS.

a. WHAT KIND OF RESULTS ARE YOU LOOKING FOR IN PROCESSING CHARGES?

b. IS IT REASONABLE TO HAVE A RESULTS-ORIENTED SYSTEM FOR CHARGE PROCESSING WHICH IS BASICALLY AN INVESTIGATIVE PROCEDURE THAT SEEKS TO ESTABLISH WHETHER DISCRIMINATION HAS OCCURRED AND IF SO, TO REMEDY IT?

c. WITH A RESULTS EMPHASIS, SUCH AS A CERTAIN SETTLEMENT RATE, AREN'T YOU, IN EFFECT PRE-JUDGING THE MERITS OF CHARGES?

d. DOESN'T THIS EMPHASIS IN FACT, ENCOURAGE STAFF TO SETTLE CHARGES THAT HAVE NO MERIT JUST TO MEET THEIR GOALS AND TO "MAKE THE NUMBERS COME OUT?"

e. DOESN'T THIS PERSPECTIVE IN EFFECT ASSUME THAT DISCRIMINATION WILL CONTINUE UNABATED DESPITE EEOC's EFFORTS?

f. WHAT HAVE YOU DONE TO DEAL WITH THE MATTER OF YOUR STAFF SETTLING CHARGES THAT HAVE NO MERIT, AS DISCUSSED ON PAGES 12-15 OF GAO's 4/9/81 REPORT ON EEOC CHARGE PROCESSING ACTIVITIES (HRD-81-29)?

The EEOC established its management accountability system (MAS) in order to better ensure both the quality and quantity of its efforts to enforce the anti-discrimination laws.

The MAS serves several purposes: 1) it tracks how the charge-processing systems are working so that problem areas can be more easily identified and dealt with; 2) it provides the Commission with a valuable planning tool; and 3) it is the mechanism whereby expectations for how the Commission will carry out its legislative mandate are communicated to staff. These expectations include such things as timely processing of charges, maintaining inventory at a workable level, productivity measures for professional staff, and encouraging full use of systems established to enhance the agency's ability to settle cases where all parties agree.

It is important to note that these performance expectations are not based on pre-established ideas of what ideally should happen but rather are based on the agency's past experience in each area. Expectations are often set as ranges or averages. Once expectations are spelled out, it often occurs that modifications are made - sometimes office-by-office as situations/experiences change.

Likewise, settlement rates are based on the agency's experience and take regional factors into account. These are established in order to encourage the staff to utilize the full range of methods - including no-fault settlement attempts - to resolve cases.

We do not believe our results-oriented perspective assumes that discrimination will continue unabated, since, as indicated, field office performance indicators are modified upward or downward, based on actual experience.

The agency does not encourage staff to force settlement on any charge which obviously has no merit. To clarify this, we published a Field Note (attached) in June of 1981 and modified section 15 of the compliance manual.

ON PAGE 8 OF YOUR BUDGET REQUEST YOU STATE THAT THE LEVEL OF INDEPENDENT EXAMINATION OF EEOC'S FISCAL PRACTICES IS BEING MAINTAINED.

a. WHAT IS THIS "LEVEL"?

b. WHAT KINDS OF EXAMINATIONS DOES IT INCLUDE?

c. HOW MANY REVIEWS DID EEOC's INTERNAL AUDIT OFFICE DO IN 1981/82?

d. WHAT IS THE ACTUAL ON-BOARD STAFFING OF YOUR INTERNAL AUDIT OFFICE?

e. DOES THE INTERNAL AUDIT OFFICE HAVE A WORK BACKLOG? WHY? HOW CAN IT BE REDUCED?

The Commission's Office of Internal Audit (OIA) completed 67 audits during FY 1981 and some 94 are planned for FY 1982. The audits are primarily of imprest funds, State and local contracts and other reimbursable contracts. In addition, that office conducted three financial transaction audits in FY 1981 and audited the FY 1981 close-out reports. Since October of 1981, OIA has been receiving and reviewing the agency's financial reports on a continuing basis, conducting audits when a need is identified.

The current staffing level of OIA is eight: six professionals and two clericals. We currently are advertising to fill the position of permanent director of that office. The person chosen for this position, which is in the Senior Executive Service, will be expected to direct audits in the areas of financial accountability, resource management and to maintain effective control over other revenues, expenditures, assets and liabilities, to assure that financial systems are properly operated and that they are in compliance with prescribed directives and Federal standards. This vacancy announcement was issued on April 19 and closes on May 14.

The Internal Audit office has in its workload a substantial number of cost-reimbursable contracts, most of them with State and local agencies, that must be audited before close-out. Many of these contracts are several years old, but records required for a creditable audit are not readily available. However, the number of such contracts entered into by EEOC in FY 1981 and planned for FY 1982 have been reduced by some 50 percent, and this fact, coupled with

greater productivity on the part of the agency's internal audit staff, should reduce the current backlog in that office.

ON PAGE 9 OF YOUR BUDGET SUBMISSION YOU STATE THAT BUDGETARY REDUCTIONS WILL PREVENT YOU FROM FULLY IMPLEMENTING THE MANAGEMENT ACCOUNTING SYSTEM.

a. WHAT PORTIONS WILL NOT BE IMPLEMENTED?

b. HOW WILL THIS AFFECT YOUR BASIC ENFORCEMENT PROGRAM?

Since full implementation of the management accountability system depends on interagency agreements for the use of their computer facilities, budgetary cuts will impact on those phases of the process which are machine-dependent.

The final linkage cannot be implemented and, in fact, the agency will have to cut the types and frequency of computerized output reports for all charge and case-processing and for budget execution.

ON PAGE 9 OF YOUR BUDGET SUBMISSION YOU STATE THAT THE NUMBER OF EEO-1 THROUGH EEO-6 REPORT SURVEYS WILL BE REDUCED.

a. WHAT WILL BE THE REDUCTION?

b. WHY IS THIS NECESSARY?

c. IN ITS 4/9/81 REPORT GAO CRITICIZED THE EEO-1 FORM BECAUSE IT LACKED SALARY DATA. HAVE YOU CHANGED THE FORM TO INCLUDE THIS DATA? (GAO REPORT HRD-81-29)

The reduction in the survey program is reflected only in the number of forms which are collected from respondents. This has been accomplished by either decreasing the frequency with which respondents have to report, from annual to biennial, or by allowing the smaller respondents to file a single summary report instead of the former multiple reports by function. These reductions do not exempt any employers who were previously required to file.

The change in frequency for filing of the EEO-5 reports by elementary and secondary school districts was based on the fact that school district employment does not change appreciably on an annual basis.

The above-outlined changes were made as a result of evaluation of the data collected by the Commission and its data needs, as well as from concern for minimizing respondent burden.

The Commission is still evaluating expansion of the EEOC employee information report to include salary data. Because remuneration of employees in private industry takes on many diverse forms, e.g. hourly rates, commissions, fixed annual rates, bonuses, etc., collection of salary data on a simplified basis is difficult and requires additional study. Because of its attendent increase in reporting burden, expansion of the form to include salary data must, therefore, be balanced against the overall increase in respondent burden.

ON PAGE 13 OF YOUR BUDGET REQUEST YOU STATE THAT A MAJOR ENFORCEMENT PROGRAM OBJECTIVE IS TO PROVIDE EFFICIENT SERVICE TO VICTIMS OF EMPLOYMENT DISCRIMINATION THROUGH THE COMMISSION'S EXPEDITED CHARGE PROCESSING SYSTEMS.

a. IT IS NOT CLEAR HOW THE RAPID CHARGE PROCESS IS SERVING VICTIMS OF DISCRIMINATION SINCE THE PROCESS DOES NOT CONSIDER THE MERITS OF CHARGES--IT ONLY SEEKS TO SETTLE THEM THROUGH NO-FAULT AGREEMENTS. IS IT YOUR BELIEF THAT ALL SUCH SETTLEMENTS ARE IN FACT PROVIDING RELIEF TO ACTUAL VICTIMS OF DISCRIMINATION?

b. THIS STATEMENT ALSO APPEARS TO IMPLY THAT AN EMPLOYER'S SETTLEMENT OF A CHARGE IN THE RAPID CHARGE PROCESS IS AN ADMISSION OF DISCRIMINATION OR GUILT. IS THIS WHAT YOU INTENDED TO STATE?

Title VII of the Civil Rights Act of 1964 emphasizes the voluntary resolution of charges. Congress sought to have employers and employees settle their disputes amicably and confidentially.

In 1976, a GAO report and many Members of Congress criticized the Commission for its low settlement rate--a rate that historically had run at below 15 percent. The report also noted the Commission's expanding backlog, which had climbed to 100,000 charges, or about a two-year volume of work. A central source of this problem was the Commission's practice of completing an investigation of every charge of discrimination before a concentrated effort was made to resolve it. As processing time passed, positions hardened, settlements became all the more unlikely, and the inventory grew.

To address this, the Commission developed a rapid-charge-processing system which placed emphasis on speedy resolution of charges. Within three to four months of receipt of a charge, employers and employees are asked to come to the Commission's offices to meet around the table, to discuss the facts in a case and to attempt a voluntary settlement.

Since the introduction of rapid-charge-processing, the Commission's settlement rate has risen to almost 45 percent. As a result, charge processing time has been significantly reduced. When parties amicably settle cases, it becomes unnecessary to further investigate them; hence, the inventory diminishes and the public interest is served.

While there is no way to ascertain whether or not all persons receiving relief pursuant to the negotiated settlement process would have received favorable determinations from the Commission on the merits of their charges or would have prevailed in court, it is likely that many such charges are settled in the rapid-charge-process system. An employer's settlement of a charge in this system does not constitute an admission of discrimination; a standard provision of the agreement specifically states that there is no admission of a statutory violation.

ON PAGE 13 OF YOUR BUDGET SUBMISSION, YOU STATE AS AN ACCOMPLISHMENT THE CHARGE SETTLEMENT RATES AND BENEFITS OBTAINED FOR TITLE VII, ADEA, AND EPA. SIMILARLY, ON PAGE 15 OF YOUR BUDGET REQUEST YOU STATE THAT ANTICIPATED ACCOMPLISHMENTS FOR FY 1983 WILL INCLUDE A RAPID CHARGE SETTLEMENT RATE IN EXCESS OF 40%; A 25% SETTLEMENT RATE FOR ADEA AND EPA CHARGES; AND BENEFITS TO SOME 36,000 INDIVIDUALS TOTALLING ABOUT $76 MILLION.

a. YOUR EMPHASIS SEEMS TO BE ON SETTLEMENT RATES AND BENEFITS. WITH THIS APPROACH HOW ARE YOU ADDRESSING EMPLOYMENT DISCRIMINATION, SINCE IN THE RAPID CHARGE PROCESS THE MERITS OF CHARGES IS NOT A FACTOR IN THEIR SETTLEMENT?

b. FOR HOW MANY CHARGES DID THE COMMISSION MAKE CAUSE FINDINGS IN FY 1981?

c. HOW MANY OF THOSE WHO RECEIVED BENEFITS DID YOU FIND TO HAVE BEEN VICTIMS OF EMPLOYMENT DISCRIMINATION?

Although final settlements achieved in the rapid-charge-processing (RCP) system are by nature no-fault settlements, the merits of a charge do play a role in the ability of an investigator to achieve settlement. Experience in our district offices would indicate that respondents in the early stages of the RCP system make an assessment as to the likely merit and outcome of a case. Based on that assessment, as well as the posture of the charging party, a respondent determines his best course of action. If, in fact, it appears that discrimination may have occurred, respondents are usually very eager to settle early to avoid a cause determination and to mitigate financial liability. Furthermore, our investigators have been trained in the use of settlement skills, such as encouraging parties to participate in voluntary negotiations.

In FY 1981 the EEOC made cause findings in approximately 1468 Title VII cases, and of these, 500 resulted in successful conciliations.

Another 20,719 charges were settled in FY 1981 as no-fault settlements, without the need for a formal determination on the merits.

ON PAGE 14 OF YOUR BUDGET REQUEST YOU STATE THAT IN FY 1981 THE COMMISSION INITIATED 1,389 CASES.

a. WHAT IS THE BREAKDOWN OF THESE CASES BY TITLE VII, EPA, AND ADEA?

b. WHAT WERE THE RESULTS OF THESE CASES? I.E., HOW MANY RESULTED IN CAUSE FINDINGS, SETTLEMENTS, OR DOLLAR BENEFITS; HOW MANY WERE CLOSED WITHOUT SUCH A RESULT?

The 1389 cases targeted for litigation-oriented investigations were composed of 1077 Title VII non-systemic cases, 32 Title VII systemic cases, and 280 ADEA cases. Since the Equal Pay Act assumes that all charges are class in nature and requires that any remedy be applied to a class, EPA cases are not targeted for litigation-oriented investigations. The results of litigation-oriented investigations in FY 1981 were as follows:

Title VII

There were 119 settlements, yielding benefits of $1,604,424. Cause findings were made in 312 of the cases and no-cause findings in 108. Two hundred twenty-six cases resulted in unsuccessful conciliations, 143 charges were closed administratively and 129 were returned for normal administrative processing. Four hundred fifty-two cases are still pending investigation. Of the 32 systemic cases, seven were not filed and 25 are pending investigation.

ADEA

There were 46 settlements yielding benefits of $14,404,230. Eighty-one cases resulted in unsuccessful conciliations and 50 were administratively closed. Seven were returned for investigation through the normal administrative process; 96 are pending investigation.

EPA

As a result of EPA investigations conducted in FY 1981, 40 cases were referred to the General Counsel for litigation.

YOUR BUDGET SUBMISSION STATES (P. 23) THAT NEW REGULATIONS AND PROCEDURES GOVERNING THE PROCESSING BY FEDERAL AGENCIES OF FEDERAL EEO COMPLAINTS ARE BEING DEVELOPED AND WILL BE IMPLEMENTED IN FY 82.

a. WHY ARE NEW REGULATIONS AND PROCEDURES NEEDED?

b. WHAT PROBLEMS WITH THE EXISTING FEDERAL EMPLOYEE EEO COMPLAINT SYSTEM ARE THEY ADDRESSING? IN PARTICULAR, HOW DO THEY DEAL WITH THE UNTIMELINESS OF THE PRESENT SYSTEM?

c. HOW DO THESE NEW REGULATIONS AND PROCEDURES ADDRESS THE ISSUE OF FRIVOLOUS COMPLAINTS WHICH HAS BEEN A PROBLEM IN THE EXISTING SYSTEM—E.G., PROVIDE FOR QUICKLY DISPOSING OF THEM?

d. WILL THE NEW REGULATIONS AND PROCEDURES REFLECT THE RESULTS OF THE 13 AGENCY TASK FORCE THAT HAS BEEN STUDYING THE FEDERAL EEO COMPLAINT SYSTEM?

New regulations are being proposed because current regulations mandate a complaint-processing system that is wasteful and inefficient. With new regulations, intake of charges could be professionalized, frivolous complaints discouraged, and complaints dealt with more expeditiously.

In connection with these proposals, we are working closely with the 13 agency task force of the Assistant Secretaries for Management Group (ASMG). We consulted with and considered the concerns of those agencies when we drafted our initial staff proposals, and we thereafter solicited their comments on those proposals. We are currently studying ASMG's comments and will be submitting revised proposals to that group, among others, for additional comments and suggestions.

IN A NOVEMBER 1981 REPORT (FPCD-82-6) GAO POINTED OUT THAT THE FEDERAL EEO COMPLAINT APPEALS PROCESS WAS UNTIMELY—TAKING ABOUT 300 CALENDAR DAYS PER CASE. IN YOUR BUDGET REQUEST ON PAGE 23 YOU STATE THAT THE APPEALS CASE INVENTORY WILL GROW 10 PERCENT.

a. WHY IS THE APPEALS PROCESS UNTIMELY, SINCE IT BASICALLY ENTAILS JUST A DESK REVIEW OF COMPLAINT FILES?

b. WHAT ARE YOU DOING TO DEAL WITH THE UNTIMELINESS PROBLEM, PARTICULARLY SINCE IT SEEMS TO BE WORSENING?

In recognition of this untimeliness problem in the Office of Review and Appeals, the Commission has taken several steps to correct it. I recently appointed, on an acting basis, a proven agency manager to direct that office's operations. During the few weeks he has been in that position, he has increased the performance standards expected of attorneys and is instituting new management systems whereby the backlog of appeals decisions already ruled on but not mailed are being forwarded to appellants and affected agencies, and the backlog of new appeals are being processed systematically and in a more timely fashion.

ON PAGE 22 OF YOUR BUDGET REQUEST YOU STATE THAT A MAJOR OBJECTIVE IS TO ENSURE THAT FEDERAL AGENCIES ARE MORE CONSISTENT IN PROCESSING EMPLOYEES' EEO COMPLAINTS.

a. IN WHAT WAYS HAVE THE AGENCIES BEEN INCONSISTENT?

b. WHAT MECHANISM WILL YOU USE TO ENSURE MORE EFFECTIVE OVERSIGHT OF AGENCIES' EEO COMPLAINT PROCESSING?

In some respects, it may be said that Federal agencies are not inconsistent in their processing of complaints, in that each agency follows the same procedural rules as required in our regulations. It is in the application of those procedural rules—of processing times, efforts to settle complaints, final results, etc.—where the inconsistencies arise.

For example, there are now wide variances among Federal agencies with respect to how much time it takes them to process cases at each of the major stages of the process. Some agencies take only a few weeks to decide to accept or reject a complaint; others take more than a year. Some agencies take, on average, only a few months to settle those complaints that can be settled; some agencies average over three years. Such wide variations would not exist if each and every Federal agency was consistently providing sufficient resources and consistently applying the same settlement concepts and discrimination law to their internal complaint systems.

In order to allow us to monitor the process more closely, we have recently modified our agency reporting requirements to provide for a consolidated semi-annual report. We have also allocated resources to the review and analysis of that report so as to enhance our capacity to identify problems as they arise and move to assist Federal agencies in correcting them.

THE UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES WERE ADOPTED BY EEOC, AND FOUR OTHER FEDERAL AGENCIES IN 1978. THE GUIDELINES DESCRIBE HOW EMPLOYERS SHOULD USE TESTS IN MAKING EMPLOYMENT DECISIONS. THE GUIDELINES HAVE BEEN CRITICIZED AND SEVERAL PROFESSIONAL ORGANIZATIONS HAVE CALLED FOR THEIR REVISION.

a. SOME FEDERAL AGENCIES AND PRIVATE GROUPS HAVE CALLED FOR REVISION OF THE UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES WHICH EEOC AND FOUR OTHER FEDERAL AGENCIES ADOPTED IN 1978. SINCE EEOC HAS THE LEAD ROLE IN FEDERAL EEO MATTERS, HAVE YOU TAKEN ANY STEPS TO REVISE THE GUIDELINES IN RESPONSE TO CRITICISM OF THEM?

b. THE PRESIDENTIAL TASK FORCE ON REGULATORY RELIEF TARGETED THE UNIFORM GUIDELINES FOR "AGENCY RECONSIDERATION" IN AUGUST 1981, CITING PROBLEMS THAT STATE AND LOCAL GOVERNMENTS, PRIVATE EMPLOYERS, AND EDUCATIONAL INSTITUTIONS HAVE COMPLYING WITH THE GUIDELINES. IS EEOC PARTICIPATING IN THIS "RECONSIDERATION", AND IF SO WHAT IS YOUR INVOLVEMENT?

See answer to Question 8 submitted by Chairman Weicker.

ON PAGE 30 OF YOUR BUDGET REQUEST YOU STATE THAT IMPROVED ADMINISTRATIVE SUPPORT SYSTEMS ARE PLANNED FOR IMPLEMENTATION IN FY 1982.

a. WHAT ARE THESE SYSTEMS?

b. WHAT IMPROVEMENTS ARE PLANNED?

c. TO WHAT EXTENT DO THESE CHANGES ADDRESS THE CONCERNS THAT GAO RAISED IN ITS 4/21/81 REPORT ABOUT THE OPERATIONS SERVICES UNITS IN DISTRICT OFFICES? (GAO REPORT HRD-81-74)

Field support functions are being strengthened through additional training and on-site technical assistance trips. The performance appraisal system for District Directors has been expanded to include their support function responsibilities. We have also set a priority on filling key staff vacancies in the support area, although due to new personnel ceiling allocations, those vacancies will be or are being filled with detailed EEOC personnel, persons on loan from the Office of Personnel Management, and persons hired from the outside for periods not to exceed one year.

IN RESPONDING TO GAO's 4/9/81 REPORT ON EEOC's CHARGE PROCESSING ACTIVITIES, EEOC STATED THAT IT HAD A TASK FORCE STUDYING THE REPORTING REQUIREMENTS FOR EMPLOYERS SUBJECT TO TITLE VII. (GAO REPORT HRD-81-29)

a. HAS THIS STUDY BEEN COMPLETED?

b. WHAT CHANGES HAVE BEEN AND WILL BE MADE IN THE REPORTING REQUIREMENTS FOR EMPLOYERS FILING FORMS EEO-1 THROUGH EEO-6?

The study regarding the reporting requirements for employers subject to Title VII has not been completed. To date, the following changes in the reporting requirements for employers have been made:

1. Form EEO-4 (State and Local Government Information Report). Beginning with calendar year 1981, respondents with fewer than 250 employees need only file a summary report rather than the previous functional report. As a result of this change, the number of forms collected by EEOC will be reduced by approximately 50 percent and the response burden almost in half, from 360,000 to approximately 190,000.

2. Form EEO-5 (Elementary - Secondary Staff Information Report). EEOC has proposed an amendment that would permit public elementary and secondary schools to file staff information once every two years instead of annually, as is now required. The proposed amendment will be published in the Federal Register for comment and, if implemented, the biennial reporting requirement would significantly reduce the reporting burden on all schools involved. The EEO-5 survey would be filed only on even years, beginning in the fall of 1982, which coincides with the Department of Education's Office of Civil Rights' companion survey of pupil population, which has been done on a biennial basis since 1976. This should further reduce the reporting burden.

3. Form EEO-6 (Higher Education Staff Information Report). A recommendation to modify and revise this questionnaire to reduce the amount of data collected and length of the questionnaire is under consideration.

4. Forms EEO-2 and EEO-2e (Apprenticeship Information Report). A proposal to consolidate and share information with the Bureau of Apprenticeship and Training, Department of Labor, an office which collects similar data, is under consideration. Should consolidation and/or information-sharing with EEOC take place, the reporting burden should be significantly reduced.

5. Forms EEO-1 (Employer Information Report) and EEO-3 (Local Union Report) are being reviewed for possible changes.

IN GAO's 4/21/81 REPORT ON EEOC ADMINISTRATION ACTIVITIES, GAO NOTED THAT IMPREST FUND LEVELS AT DISTRICT OFFICES APPEARED EXCESSIVE AND NEEDED TO BE REDUCED. (GAO REPORT HRD-81-74)

HAVE YOU REDUCED IMPREST FUND LEVELS AT DISTRICT OFFICES AS GAO RECOMMENDED?

The imprest funds assigned to all district offices were reviewed and all were reduced to reflect the amounts used during a three-month period. The result is imprest funds ranging from $200 to $1000. My staff has coordinated this matter with Treasury Department officials, and I have requested that these funds be audited as required and determinations be made as to the appropriateness of further upward and downward modifications.

IN ITS 4/21/81 REPORT ON EEOC ADMINISTRATIVE ACTIVITIES (HRD-81-74), GAO DISCUSSED THE EXISTENCE OF EXCESS PERSONAL PROPERTY IN DISTRICT OFFICES AND THE NEED FOR A PROPERTY INVENTORY.

ON PAGE 31 OF YOUR BUDGET REQUEST YOU STATE THAT IN FY 1981 A PERSONAL PROPERTY INVENTORY WAS CONDUCTED.

a. DID THE INVENTORY SHOW ANY EXCESS PROPERTY ON HAND EITHER IN FIELD OR HEADQUARTERS OFFICES?

b. WHAT WAS DONE WITH THIS EXCESS PROPERTY?

The agency has completed the inventory of personal property and has a computerized listing system on-line. We have identified excess furniture and are in the process of transferring it from office to office, as the need arises.

IN ITS 4/21/81 REPORT ON EEOC ADMINISTRATIVE ACTIVITIES, GAO STATED THAT THE LEGAL STAFFING OF DISTRICT OFFICES APPEARED EXCESSIVE. GAO RECOMMENDED THAT THEIR LEGAL UNITS' RESOURCE ALLOCATION BE REASSESSED AND APPROPRIATE CHANGES MADE. (GAO REPORT HRD-81-74)

a. HAS AN EVALUATION OF DISTRICT OFFICES' LEGAL STAFFING ALLOCATIONS BEEN MADE?

b. WHAT CHANGES HAVE BEEN MADE IN DISTRICT OFFICES' LEGAL UNITS' STAFFING?

See answer to Question 9 submitted by Chairman Weicker.

IN ITS 4/21/81 REPORT ON EEOC ADMINISTRATIVE ACTIVITIES, GAO DISCUSSED THE MATTER OF UNDERUTILIZED OFFICE EQUIPMENT, SUCH AS WORDPROCESSING EQUIPMENT. (GAO REPORT HRD-81-74)

a. WHAT HAS THE COMMISSION DONE TO DEAL WITH THE ISSUE OF UNDERUSED OFFICE EQUIPMENT? HAS ANY BEEN RETURNED TO LESSORS OR SOLD?

b. WHAT PROCEDURES HAVE BEEN DEVELOPED TO ENSURE THAT OFFICE EQUIPMENT NEEDS ARE FULLY IDENTIFIED BEFORE NEW EQUIPMENT IS PURCHASED?

c. WHAT OFFICE EQUIPMENT IS BEING LEASED DURING FY 1982? HOW MUCH IS THIS EQUIPMENT USED?

d. WHAT OFFICE EQUIPMENT HAS BEEN OR WILL BE PURCHASED IN FY 1982?

During FY 1980, 15 pieces of underutilized word processing equipment (WPE) were returned to vendors. The FY 1981 WPE study revealed that all remaining equipment was properly justified. In addition, special instructions were issued by the Executive Director requiring office directors to take an active role on the effective use of WPE. Equipment identified as excess to an office is normally

transferred to another office where need has been established. Our FY 1982 utilization study is now underway.

For FY 1982, 40 pieces of WPE are being leased, and once the current utilization study is completed, we will be able to determine to what extent this equipment is being used.

We have budgeted $226,000 for all equipment during FY 82. An estimated $156,000 has been obligated for the purchase of equipment which has a lower purchase price than the annual cost of rental, due to equity accruing during previous years of rental.

QUESTIONS SUBMITTED BY WALTER F. FAUNTROY, CHAIRMAN, CONGRESSIONAL BLACK CAUCUS

RECENT EEOC PERSONNEL ACTIONS APPEAR TO VIOLATE THE CIVIL SERVICE REFORM ACT. MOREOVER, THEY HAVE HAD A DISPROPORTIONATELY NEGATIVE EFFECT ON SENIOR BLACK AND HISPANIC CAREER CIVIL SERVANTS.

The personnel actions you refer to do not violate the Civil Service Reform Act, nor do they have a disproportionately negative effect on senior (i.e., SES) black or Hispanic career employees. The single black SES employee affected replaces, on a temporary basis, a white employee as director of our Chicago District Office. The single Hispanic SES member affected was offered the directorship of a district office, but chose instead a temporary detail to the Office of General Counsel. Therefore, there has been no adverse effect.

a. WHAT IS THE MANAGEMENT RATIONALE FOR THESE SHIFTS?

The change of duty stations, for SES and non-SES personnel alike, are a means of improving the agency's performance.

b. HOW CAN THEY BE JUSTIFIED UNDER THE PROVISIONS OF THE CIVIL SERVICE REFORM ACT?

Both SES reassignments were made in the best interests of the agency and, in fact, one was requested and the other accepted.

c. WILL ANY FURTHER SENIOR STAFF BE REASSIGNED OR DETAILED BEFORE THE NEW CHAIRMAN ASSUMES OFFICE?

There are no plans to do so.

d. IS IT TRUE THAT THE EXECUTIVE RESOURCE BOARD WHICH DIRECTS ALL EXECUTIVE PERSONNEL POLICY AND PASSES ALL SELECTION CRITERIA HAS BEEN RECONSTITUTED BY YOU INTO AN ALL-WHITE BOARD?

The board is comprised of the three persons in the agency having direct responsibility for allocating financial and personnel resources—myself, the General Counsel and the Acting Executive Director. It happens that each of us is white.

e. IS THIS CONSISTENT WITH EEOC's OWN REQUIREMENTS OF OTHER EMPLOYERS THAT SELECTION PANELS REFLECT BROAD PARTICIPATION BY RACE AND SEX?

The Executive Resources Board is not a selection panel. Rather, it deals only with the allocation of financial and staff resources by the Board members.

f. LIST EACH SENIOR MANAGEMENT PERSONNEL CHANGE IN THE LAST THREE MONTHS.

See Attachment A.

JANUARY 1982

NAME	GRADE SERIES	DATE	FROM	TO	TYPE OF ACTION
Borders, Marjorie	GS905-14	01-24-82	Attorney Examiner GS-905 13/2 Baltimore District Office Washington Area Office	Attorney Advisor (Special Assistant to Associate General Counsel) Legal Cl GS-14/1 Washington, D.C.	Promotion
Shannon, Odessa	ES301-03	01-31-82	Deputy Director for Field Services Office of Field Services ES-02	Director, Office of Program Planning and Evaluation ES-301-03	Reassignment

ATTACHMENT A

FEBRUARY 1982

NAME	GRADE SERIES	DATE	FROM	TO	TYPE OF ACTION
Holland, Kenneth A.	GM-510-14/00	02-21-82	Department of Agriculture	Equal Employment Opportunity Comm.	Transfer
Passero, Ronald P.	GM-560-15/00	02-07-82	Department of State	Equal Employment Opportunity Comm.	Transfer
Planansky, Robert G.	GM-905-15/00	02-01-82		Equal Employment Opportunity Comm.	Excepted Appointment
Boyd, Clayton G.	GM-160-15/00	02-07-82	Pers. Staffing Spec. GM-212-14/00 Office of Government Employment Office of the Director	Equal Opport. Officer, Office of Government Employment, Div. of Programs for Handicapped Individuals	Promotion
Roggerson, Chris	ES-905-00/06	02-14-82	Deputy Director Office of Review and Appeals	Director Office of Policy Implementation	Reassignment (Re-employed Annuitant)
Sklover, Philip B.	ES-905-00/02	02-07-82	Supvy. Trial Attorney (CR) GM-905-157 Office of General Counsel 00 Appellate Division	Associate General Counsel Office of General Counsel Appellate Division	Conv. to SES Career Appt.
Thornton, Elizabeth M.	GM-301-15/00	02-07-82	Equal Opportunity Spec. GM-160-14/00 Office of Field Servire Field Management Division	Deputy Director Office of Field Services	Promotion
Gloria, Hermilo R.	ES-340-00/02	02-07-82	Equal Opportunity Officer GM-160-15/00 San Francisco District	Program Manager Phoenix District	Conv. to SES Career Appt.
Dorsey, Frederick D.	ES-905-00/04	02-06-82	Director Office of Policy Implementation	District Government	Termination--Appt. in District Government

NAME	GRADE SERIES	DATE	FROM	TO	TYPE OF ACTION
Huston, Gretchen D.	GM-905-15	03-13-82	Regional Attorney (CR) GM-905 15/00 St. Louis District Office	Supervisory Trial Attorney GM-905 14/00 (same office)	Change to Lower grade from Temporary Promotion
Jenkins, Leroy T.	GM-905-14	03-28-82	Supervisory Trial Attorney GM-905/14 Philadelphia District Office	Supervisory Trial Attorney GM-905 14/00 (New York District Office)	Detail NTE 09-27-82
Underwood, Gloria	GM-160-14	03-21-82	Supervisory Equal Opportunity Spec. GM-160 13/00, Baltimore District Office/Norfolk Area Office	Supervisory Equal Opportunity Spec. GM-160 14/00 Baltimore District Office	Promotion
Brenner, Paul D.	GM-905-13	03-28-82	Supervisory Trial Attorney GM-905 14 Office of General Counsel Litigation Services Branch	Trial Attorney (Civil Rights) GS-905 13/09	Return to Duty and change to Lower grade
Morgan, Edgar G.S.	ES-301-4	03-04-82	Director, Office of Congressional Affairs ES-301-04	Executive Director ES-301-04 Office of the Chair Office of the Executive Director	Detail NTE 07-02-82
Dupre, Constance L.	ES-905-05	03-21-82	Associate General Counsel ES-905-5 Office of General Counsel Legal Counsel Division	Director, ES-905-05 Office of Systemic Programs	Detail NTE 07-20-82
Jenkins, Issie ...	ES-905-06	03-03-82	Executive Director ES-340-06 Office of the Executive Director	Deputy General Counsel Office of General Counsel	Termination of Detail
Baca, Raymond R.	GS-905-13	03-12-82	Attorney Advisor GM-905 14/00 Office of the Chairman	General Attorney (CR) GS-905 13/4 Office of General Counsel Appellate Division	Change to Lower grade
Stringer, Mary E.	GM-560-14	03-07-82	Supervisory Budget Analyst GM-13 Office of Program Planning & Evaluation, Budget Branch	Supervisory Budget Analyst GM-14 (same office)	Promotion
Esquibel, Joseph F.	GM-340-14	03-21-82	Director, Division of Standards and Regulations GM-301 15/00 Office of Interagency Coordination	Supervisory Equal Opportunity Specialist GM-14/00 Denver District Office	Reassignment and Change to Lower grade
Dapra, Richard A.	EF-301	03-08-82	Consultant EF-301 $192.72 pd Personnel Division		Termination Exp. of Appt.
Baker, Kenneth A.	GM-301-14	03-26-82	Special Program Coordinator GM-301/14 Program Planning		Termination Exp. of Appt.
Fauntleroy, Lefford B.	GM-301-15	03-06-82	Special Assistant to the Director GM-301 15, Office of Program Planning and Evaluation		Termination - Involuntary

NAME	GRADE SERIES	DATE	FROM	TO	TYPE OF ACTION
Neal, Mollie W.	GM-905-15/00	04-04-82	Regional Attorney GM 905-15/00 Baltimore District Office .	Supvy. Trial Attorney Office of General Counsel	Reassignment
Jordan, James Joseph	GM-160-14/00	04-18-82	Equal Opportunity Spec. GM-160/13/00 Office of Field Services Operations Eval. Div.	Supvy. Equal Opport. Spec., Compliance Manager Los Angeles District	Promotion
Waters, Virginia	GS-905-14/04	04-04-82	Supvy. Trial Attorney (Gen) GM-905 14/00 New York District, Legal Unit	Trial Attorney (CR) New York District, Legal Unit	Reassignment
Lee, Williams, J.	GM-905-15/00	04-18-82		Regional Attorney New York District, Legal Unit	Excepted Appt.
Huessey, Paula J.	GM905-14	04-26-82	Attorney Advisor GM-905 14 Office of Field Services	Unclassified Duties Review and Appeals	Detail NTE 08-23-82
Strejcek, Barry W.	GM160-14	04-25-82	Equal Opportunity Specialist Office of Field Services	Unclassified Duties Office of Systemic Programs-Sears Ut	Detail NTE 08-14-82
Saltonstall, Thomas	GM160-15	04-18-82	Equal Opportunity Specialist Office of Field Services Technical Guidance Division	Director, Office of Field Services Office of Field Services	Detail NTE 08-14-82
Lefknow, Michael F.	GM905-14	04-17-82	Supervisory Trial Attorney, GM 905-14 Miami District Office		Termination-Appt in U.S. Postal Service
Neeley Jr., James	GM-905-15	04-18-82	Regional Attorney, GM 905-15 St. Louis District	Regional Attorney New Orleans District	Reassignment
Darden, George	GM-905-15	04-18-82	Regional Attorney, GM-905-15 Denver District	Regional Attorney Detroit District	Reassignment
Harper, Earl	GM-905 15	04-18-82	Supervisory Trial Attorney, GM-905-15 General Counsel, Trial Division	Regional Attorney Baltimore District	Reassignment
Jones, Robert	GM-905-15	04-18-82	Regional Attorney, GM-905-15 Dallas District	Regional Attorney, GM-905-15 Denver District	Reassignment
Mitchell, Joseph	GM-905-15	04-18-82	Regional Attorney, GM 905-15 Detroit District	Regional Attorney, GM 905-15 Dallas District	Reassignment

APRIL 1982

NAME	GRADE SERIES	DATE	FROM	TO	TYPE OF ACTION
Cruz, Nestor	GM-905-15	04-18-82	Director, Office of Review and Appeals	Unclassified Duties Office of General Counsel	Detail
Huston, Gretchen	GM-905-15	04-19-82	Regional Attorney, GM-905-15 St. Louis District	Acting Associate GC, Trial Division Office of General Counsel	Detail
Rivera, Ivan	GM-905-14	04-19-82	Supervisory, Trial Attorney, GM-905-14 Dallas District	Office of General Counsel	Detail

MAY 1982

NAME	GRADE SERIES	DATE	FROM	TO	TYPE OF ACTION
Bruner, Lynn V.	GM-160-15/00	05-02-82	Supvy. Equal Opportunity Spec. GM-160 San Francisco District Office 14/00	Deputy District Director Equal Opportunity Officer (E) Charlotte District Office	Promotion

ARE YOU AWARE THAT UNDER TITLE VII, THE STATUTE YOU ADMINISTER, YOUR TRANSFER OF SIX (6) BLACK MALES AND REPLACEMENT BY A GS-14 WHITE FEMALE, WOULD RAISE A PRESUMPTION OF DISCRIMINATION BASED ON DISPARATE IMPACT? HOW CAN YOU JUSTIFY TRANSFERS WITHIN A CIVIL RIGHTS AGENCY WHICH GIVE THE APPEARANCE THAT THEY MAY BE RACIALLY BASED?

The transfers do not raise a presumption of discrimination under Title VII. Each new assignment was accepted voluntarily because each person realized that the reassignments, some only temporary, were made in the best interest of the Commission.

What does raise a presumption of discrimination under Title VII was the appointment by former chair Eleanor Holmes Norton and General Counsel of black regional attorneys in numbers that far exceeded the ratio of black attorneys in the total attorney population. As of January 1981, some 45 percent of all the Commission's regional attorneys were black males, while their representation in the general attorney population is approximately 5 percent. Comparable figures for white males are 23 percent (EEOC regional attorneys) and some 80 percent nationwide. Further, the recent reassignment of EEOC attorneys has resulted in an even higher percentage of black male regional attorneys—it is now 50 percent.

WHO APPROVED THESE PERSONNEL CHANGES?

The reassignment of regional attorneys was approved by the General Counsel with the concurrence of the Acting Executive Director, since under EEOC Order No. 131, Delegation Order No. 1, issued February 27, 1979, such personnel authority is delegated by the head of the agency to the Executive Director. The detail of the Director of Field Services, who reports to the Executive Director, was approved by the Executive Director. The transfer of the Director of Review and Appeals, who requested a reassignment to the Office of General Counsel, was approved by me.

a. WHAT WAS THE ROLE OF THE COMMISSION IN APPROVING THESE CHANGES?

Reassignment of personnel is not a Commission function. Responsibility for personnel actions involving attorneys is shared by the head of the agency and the General Counsel. See Section 705(a) and (b) of Title VII.

b. WAS AN ANALYSIS OF THE RACIAL IMPACT, AS WOULD BE REQUIRED OF OTHER EMPLOYERS UNDER TITLE VII, UNDERTAKEN BEFORE THE TRANSFERS WERE MADE?

The racial and sex composition of the group of persons holding the jobs in question is approximately the same after the transfers as it was before, and therefore, there is no adverse impact as you allege.

c. DID THE CHAIRMAN-DESIGNATE KNOW OF OR APPROVE THESE CHANGES IN ADVANCE?

These personnel decisions were made by on-board Commission staff. Clarence Thomas, the President's candidate for Chairman, has not been confirmed by the Senate, and therefore it would have been inappropriate for him to have been involved.

d. WHAT WAS THE URGENCY THAT REQUIRED EXTENSIVE PERSONNEL CHANGES EVEN BEFORE MR. THOMAS WAS APPROVED BY THE SENATE BEFORE HE ASSUMED THE MANAGEMENT OF THE AGENCY?

Title VII confers on the Commission's General Counsel the responsibility of conducting the agency's litigation program. The personnel changes were made to make our litigation more effective now.

e. WERE THE CHANGES MADE AT HIS SOLE SUGGESTION OR INSTIGATION?

No.

WHEN WAS MR. MORGAN APPOINTED ACTING EXECUTIVE DIRECTOR? BY WHOM WAS HE APPOINTED?

I appointed him on March 4, 1982.

WHO IN THE WHITE HOUSE HAS KNOWLEDGE OF THESE PERSONNEL SHIFTS?

I did not inform anyone in the White House about these reassignments.

a. DID THEY APPROVE THEM IN ADVANCE?

See answer to question 5.

b. WERE CHANGES MADE AT THEIR SUGGESTION OR INSTIGATION?

They neither approved nor instigated them.

INFORMATION HAS SURFACED THAT THESE ACTIONS ARE PART OF A PLAN TO CUT AGENCY STAFF BY APPROXIMATELY ONE-HALF (FROM 3,300 TO 1,700). IS THIS TRUE?

No.

a. DESCRIBE ANY DISCUSSION NOW IN PROGRESS OR ANY PLANS FOR FURTHER REDUCTIONS IN THE COMMISSION'S WORKFORCE.

No plans have been formulated to involuntarily reduce the Commission's workforce.

b. WHAT NUMBER OF STAFF POSITIONS ARE EXPECTED TO BE ELIMINATED AND BY WHEN?

The Commission has no program to involuntarily separate any of its present employees. The Commission, anticipating level funding or possibly less-than level-funding for FY83, hopes that voluntary separations will be sufficient in number that reductions-in-force can be avoided.

c. WHAT CRITERIA HAVE BEEN DEVELOPED TO GUIDE THE COMMISSION IN ACHIEVING THESE REDUCTIONS?

Not applicable. See answers above.

GENERAL LITIGATION ESTIMATES SHOW THAT CASES BROUGHT BY THE COMMISSION PLUMMETED FROM AROUND 450 in FY'80 TO AROUND 350 IN FY'81 TO LESS THAN 30 IN THE FIRST HALF OF FY'82. WHAT IS THE REASON FOR THIS DRAMATIC REDUCTION?

In actuality, only 358 cases (including 32 subpoena enforcement cases) were filed during FY'80. In FY'81, approximately 454 cases (including 76 subpoena enforcement cases) were filed. Thus, case-filing activity increased from FY'80 to FY'81. There were 83 cases approved during the first two quarters of 1982 (including 23 subpoena cases). Sights were set lower because of a pending high inventory and uncertain resources. In addition, there has been a period of closer evaluation as directions of the Commission's litigation program are examined by the recently appointed General Counsel.

a. DESPITE THE LACK OF QUORUM, ISN'T IT TRUE THAT THE COMMISSION, ONCE IT ACHIEVED A QUORUM, ASKED FOR ALL BACK LOGGED (SIC) CASES, AND ALL THAT WERE AVAILABLE FOR COMMISSION CONSIDERATION WERE LESS THAN 30 CASES?

Regarding the availability of cases at the time when the Commission received its quorum, there were approximately 80 cases pending in headquarters for submission to the Commission. Since that time, the majority have been evaluated by the Office of General Counsel and either submitted to the Commission for approval, returned, held for further processing, or rejected.

b. THE EEOC TRANSITION REPORT RECOMMENDED NO LITIGATION FOR A YEAR. HAS THIS SHAPED YOUR POLICY AND RESULTED IN THE SHARP REDUCTIONS?

No.

c. DO YOU PLAN TO ACCELARATE (SIC) DEVELOPMENT OF CASES TO MAKE UP THE FY'82 SHORTFALL?

The Commission will continue to litigate as many cases as staff and financial resources allow.

d. HOW MANY CASES HAVE BEEN INITIATED BY HEADQUARTERS SYSTEMIC UNITS RESPECTIVELY IN THE FIRST HALF OF FY'82 AS CONTRASTED TO FY'80 AND FY'81?

No Commissioner charges were initiated during the first half of any of those three years. It had been Commission policy that no new cases would be initiated in headquarters until the backlogged systemic cases were substantially reduced. During the past three years we have done that and are now in a position to move ahead with new charges.

e. WHAT POLICY STATEMENTS OR GUIDELINES HAVE BEEN ISSUED BY THE COMMISSION THUS FAR IN FY'82?

See the enclosed Commission regulatory agenda (Attachment B), as published in the Federal Register on April 13, 1982. (CLERK'S NOTE. The attachment is being retained in the subcommittee files.)

f. WHICH ARE PROJECTED FOR THE REST OF THE FISCAL YEAR?

See the enclosed Federal Register insertion cited above.

HOW DOES EEOC's FY'83 BUDGET REFLECT PROPOSED PERSONNEL AND POLICY CHANGES?

The President's budget for FY'83 requests $144,937 for 3,327 full-time employees, which is approximately the same as it was in FY'82 and FY'81. The budget does not reflect any policy changes.

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

STATEMENT OF HAROLD E. SHEAR, ADMINISTRATOR

ACCOMPANIED BY:

RUSSELL F. STRYKER, ASSOCIATE ADMINISTRATOR FOR POLICY
MASON G. NOTTINGHAM, BUDGET OFFICER.

PREPARED STATEMENT

Senator WEICKER. Our next request is that of the Maritime Administration. The amount requested is $541,823,000, an increase of $41,177,000 over the 1983 base, and provides for 1,018 permanent positions, and funds for operating-differential subsidies, research and development, and operations and training.

Appearing on behalf of this request is Adm. Harold E. Shear, the Maritime Administrator.

Admiral, why don't you introduce those accompanying you here today. We will be glad to include your statement in the record in its entirety, and we would be pleased to have you summarize it.

[The statement follows:]

STATEMENT OF H. E. SHEAR

I am glad to appear before you this morning to present the Maritime Administration (MARAD) request for appropriations for fiscal year 1983.

Before going into the details of our proposed appropriations bill, I would like to direct your attention to the status of the merchant marine.

The U.S.-flag share of the nation's foreign trade liner cargo tonnage is not increasing. It is dropping. It has fallen from 30.9 percent in 1976 to 26.5 percent in 1980. We have not been that low since 1973. Only 3.6 percent of the total tonnage moving in U.S. foreign trade is carried by our ships. Other maritime nations carry significantly more of their trade -- Soviet Union, 50 percent; Great Britain, 32 percent; Japan, 39 percent; and, Greece, 48 percent. Obviously, as the world's greatest trading nation, we have a long way to go in increasing the strength of our merchant marine.

The President's 1983 request for the Maritime Administration would provide for continued support to the maritime industry while alternative programs are being developed. We are again proposing modest appropriation levels, as follows:

- For Ship Construction Subsidy - as for 1982, no appropriation is proposed.
- For Operating-differential Subsidy - an appropriation of $454,010,000 is requested, reflecting an increase of $35,862,000 over 1982.
- For Research and Development - a total of $16,800,000 is proposed. This request includes $5,300,000 for operation of Coast Guard icebreaking vessels. The House Committee on Merchant Marine and Fisheries has recommended that user agencies such as MARAD fund these vessels instead of Coast Guard.
- For Operations and Training activities - $71,013,000 is proposed. This includes $29,607,000 to cover

Maritime Education and Training; $7,505,000 for the National Security Support Capability program which includes reserve fleet expenses; and $33,901,000 for Operating Programs which includes most of our personnel and administrative costs.

SHIP CONSTRUCTION

The Administration's review of maritime policies is addressing a variety of shipbuilding issues and potential initiatives. Meanwhile, no appropriation is requested for Ship Construction Subsidies. It is proposed that $10,000,000 in current budget authority, which is available from prior year appropriations, be deferred into 1983 to cover essential engineering changes and other costs associated with the completion of CDS construction and conversion work that is now underway.

OPERATING-DIFFERENTIAL SUBSIDIES

The Merchant Marine Act of 1936 provides that operating subsidies be paid equal to the differential between certain U.S. and foreign ship operating costs. The Operating-differential Subsidy program puts the operator on a breakeven basis for wages, maintenance and repair, some insurance costs, and, for some vessels, subsistence.

The Administration intends to meet its obligations under existing Operating-differential Subsidy contracts. The appropriation request for Operating-differential Subsidies totals $454,010,000. This includes an increase of $36,862,000 over 1982. Of the total, $366,771,000 will be used for current subsidy payments, which will cover 151 ships in 1983. The remaining $87,239,000 will be devoted to the payment of costs of earlier year operations and will enable us to make substantial progress toward the elimination of prior year payment backlogs.

The outlays for current year operations reflect an increase in fleet activity plus changes in the cost of operations.

The increase in fleet activity over the 1982 level accounts for $4,615,000. This increase represents a return to normal operations from early 1982, when more ships than usual were in idle status. Other changes will yield a net increase of $270,000, which places the current year increase at a total of $4,885,000. Outlays for the final payment of prior year costs are necessary because of the three years required for the final collection of accurate foreign and domestic cost data. The budget request of $87,239,000 for prior year payments includes an increase of $31,977,000 over the 1982 level of prior year payments.

RESEARCH AND DEVELOPMENT

The Maritime Administration's research program works on ways to make industry more productive and reduce its costs. It addresses problems common to U.S. operators or shipyards, and it implements the results among the various firms. The accomplishments have been significant and cooperative research will be one part of our efforts to return the industry to a competitive position in World markets.

The request for Research and Development amounts to $16,800,000. As I have noted, this includes $5,300,000 which was formerly included in the Coast Guard icebreaker budget but which MARAD, as a user agency, expects to pay for in the future. The MARAD program has collected data on ice conditions in the Arctic for several years using Coast Guard vessels. Tankers are one of the transportation options for the extensive oil and gas resources in the area. According to a recent study, this area could contain 50 percent of all U.S. reserves. The Arctic R&D project in question, which is jointly conducted by MARAD, the Government of Canada, and the State of Alaska is developing a statistical base for commercial tanker construction decisions.

After the noted $5,300,000 is subtracted, the remaining $11,500,000 for MARAD's regular R&D program is $3,009,000 above the appropriation level enacted in the Fourth Continuing Resolution.

The $11,500,000 level would fund several projects of immediate importance, including: 1) work on fuel efficient power plants; 2) upgrading shipbuilding practices; 3) automation of ship operations; and 4) increased market analysis and sealift readiness.

The increase of $3,009,000 from the 1982 level includes $574,000 for improvements in the use of diesels on U.S. ships and in the safe burning of coal in a new generation of ships. Another $1,135,000 of the increase will go toward further automation of operations such as cargo booking, additional human factor research, and increased research on ports and cargo handling. In addition, $700,000 of the increase is requested for more market analysis and for further design efforts to make commercial ships more adaptable to national defense needs. The final $600,000 of the requested increase would be used to begin the replacement of various obsolete components of the Computer-Aided Operations Research Facility (CAORF), which was built at Kings Point in 1974.

OPERATIONS AND TRAINING

The request for Operations and Training amounts to $71,013,000, $3,994,000 less than the adjusted amount provided for in the Fourth Continuing Resolution.

$17,251,000 is included for the United States Merchant Marine Academy at Kings Point, New York. This includes $1,406,000 to cover increases in Academy operating expenses. However, this increase is more than offset by the elimination of the Kings Point facilities modernization program, consistent with the President's program to reduce Federal expenditures for nonessential work.

$10,668,000 is requested for financial assistance to the six State marine schools, which are located in California, Texas,

Michigan, New York, Massachusetts, and Maine. This includes $600,000 for direct payments to the schools, $2,600,000 for student incentive payments, and $7,468,000 for the maintenance and repair of schoolships.

$1,688,000 is requested for Additional Training activities. This is the same amount as the 1982 authorization less anticipated savings resulting from the transfer of two of the radar schools to private auspices.

$7,505,000 is requested for the National Security Support Capability Program which includes funds for the National Defense Reserve Fleet. This account shows a net decrease from last year of $987,000, attributable primarily to the exclusion of certain one-time costs that were provided for in 1982.

Finally, $33,901,000 is requested for other Operations and Training expenses. These funds provide for program costs, including most agency personnel and overhead costs, plus direction and administration of several agency activities. A net increase of $878,000 is attributable to increased operating costs.

FEDERAL SHIP FINANCING PROGRAM

The Administration is proposing appropriations limitations for 1982 and 1983 on new commitments for loan guarantees. These amount to $675,000,000 and $600,000,000 respectively. These reduced levels are consistent with the Administration's efforts to control the volume of Federally assisted credit programs.

This concludes my prepared statement, Mr. Chairman, and I will be glad to answer the Committee's questions.

INTRODUCTION OF ASSOCIATES

Admiral SHEAR. Thank you, Mr. Chairman.

On my immediate left is Mr. Russell Stryker from the Office of Associate Administrator for Policy and Administration. And next to him is Mr. Mason Nottingham, my Budget Officer.

I would like to give a brief statement and submit my full statement for the record, if I may.

Mr. Chairman, I am happy to appear before you this morning and to present the Maritime Administration request for appropriations for fiscal year 1983.

I would like to say a word or two about the state of the maritime industry. The U.S.-flag share of the Nation's foreign trade liner cargo tonnage is not increasing, it is dropping. It has fallen from 30.9 percent in 1976 to 26.5 percent in 1980. We have not been that low since 1973. Only 3.6 percent of the total tonnage moving in U.S. foreign trade is carried by our ships. Other maritime nations carry a significantly higher percentage of their trade by ship: For example, the Soviet Union, 50 percent; Great Britain, 32 percent; Japan, 39 percent; and Greece, 48 percent. Obviously, as the world's greatest trading Nation, we have a long way to go in increasing the strength of our merchant marine.

The President's 1983 request for the Maritime Administration would provide for continued support to the maritime industry while alternative programs are being developed. We are again proposing modest appropriation levels, as follows:

One, for ship construction subsidy—as for 1982, no appropriation is proposed.

Two, for operating-differential subsidy—an appropriation of $454,010,000 is requested, reflecting an increase of $36,862,000 over 1982.

Three, for research and development—a total of $16,800,000 is proposed. This request includes $5,300,000 for operation of Coast Guard icebreaking vessels.

Four, for operations and training activities—$71,013,000 is proposed.

The rest of my statement I will postpone and answer any questions you have.

MARITIME POLICY REVIEW

Senator WEICKER. No funds are being requested for ship construction in 1983, as was the case in fiscal year 1982, because the administration is conducting a full review of maritime policies.

Would you like to go ahead and give us an update on the status of that review and to what extent private industry is currently supporting construction and reconstruction?

Admiral SHEAR. I will be happy to.

We have been conducting this review thoroughly for a number of months in the Department of Transportation and in the Maritime Administration. We are completing that review at the present time, and are reviewing it overall within the Department and will be presenting it to the Secretary of Transportation in the very near future, in just a matter of days. That process is well underway.

With regard to your specific comments about CDS, as I mentioned, there is no CDS requested in the 1983 budget, pending an evaluation of our overall review.

I believe the program we are putting together will in fact make up for any lack of CDS not in the budget at the present time. The details of that program will be premature for me to comment on this morning.

Senator WEICKER. Well, nevertheless, the bottom line is, as you have already indicated, that you have never been, at least in recent memory, in tougher shape so far as the country's ability to carry cargo on its ships. What will industry do if funding is frozen at the current level for the next 3 years.

Admiral SHEAR. What industry is doing at the present time?

Senator WEICKER. And that is?

Admiral SHEAR. Within the current window, we are authorized to build and modify ships, and we have that underway for a number of companies at the present time.

In addition to that, we have the continuation of our regular title XI mortgage program, which is being utilized to provide reasonable coverage for various work in several shipyards.

Senator WEICKER. What do you feel is going to happen? You will have your report on current maritime policy here in a couple of days, then what is going to happen?

Admiral SHEAR. When I say that, I mean before Secretary Lewis, then it will be moving on forward to the White House in the very near future.

Senator WEICKER. Let me say this right now, this is something I think the committee definitely would like to see as early as possible. Why should we all wait for another year if you can give us guidance now?

Admiral SHEAR. I agree with that, and that guidance will be forthcoming.

Senator WEICKER. I am glad you are right on top of this, but with something of such major significance it would seem to me not to be the best fiscal procedure to ignore it and just to move on to the budget figures before us. Therefore, I would appreciate it if you would brief the committee at the earliest possible time as to what your report says.

Admiral SHEAR. I will be happy to, sir.

RESEARCH AND DEVELOPMENT

Senator WEICKER. Your fiscal year 1983 budget proposes an increase of $3,009,000 for ongoing research and development activities. Would you like to explain the need for increasing your efforts in this area?

Admiral SHEAR. Yes, sir. I mentioned the budget for funding of a Coast Guard icebreaker. That is for utilization where we have a great deal of ongoing research with the vast reserves of oil and gas. This involves maintaining tanker operations in a year-round, or approaching a year-round situation. Three million dollars in addition to that is being utilized for such things as more efficient powerplants, diesel research, coal fired boiler research, cargo loading facilities, and research work at our computer facility at Kings Point, where we are looking into ship-

ping for increased size of bulk carriers for the next generation of coal ships and so forth to deepen the channels in the years ahead.

It is money well spent.

SOVIET GRAIN AGREEMENTS

Senator WEICKER. There is no request in fiscal year 1983 for carriage of Soviet grain. What is the status of related agreements? Do you anticipate a need for additional funds if agreements are consummated in the near future?

Admiral SHEAR. There are two agreements involved here. One is the Soviet grain agreement extended until September of this year, under which grain is currently being purchased. Some 13 million tons have been purchased so far this year.

The second agreement involved is the Soviet-United States maritime agreement which expired on December 31. We are in final negotiations for revising and renewing that, or were, when the situation developed in Poland, which forced us to drop those negotiations.

There is no requirement for additional money for this grant. What we were negotiating for on the maritime side was a realistic increase in rates for the grain being carried in American vessels, and that is pending until the international situation improves. But in any event, there are no additional Government moneys involved for grain subsidy carriage.

TRANSFER OF RADAR SCHOOLS

Senator WEICKER. Your budget statement refers to the planned transfer of radar training schools to private auspices. I would like you to explain that action.

Admiral SHEAR. We have had for many years in the Maritime Administration a number of training activities including five radar schools for improving or updating the license of mariners on all coasts, the east coast, the west coast, the gulf, and the Great Lakes.

In order to cut down overhead costs we have been working vigorously for a number of months to transfer those schools to the private sector under nonprofit organizations, and we are just completing that. We are transferring all five of those schools to the Seaman's Institute in New York, a State nonprofit institution in New Orleans, and other institutions of that kind.

That is giving us a savings of over $500,000 a year.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. There are other questions that I have that I am going to submit for response to the record, and otherwise that should do it. I thank you for your appearance.

Admiral SHEAR. Thank you, Senator.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Ernest F. Hollings

Ship Construction - Construction-differential Subsidies

How will having no new funds in Ship Construction for 1983 affect activities, other than vessel construction, which have been funded under Ship Construction?

With no new funds for FY 1983, it is expected that costs for installation of national defense features and trade-in of vessels and associated lay-up costs will not be funded from the Ship Construction appropriation. We expect to be able to fund all essential changes and excess cost escalation related to subsidized shipyard work that is already under contract. Other miscellaneous costs such as owner or shipyard claims will continue to be reviewed on their merits.

Does MARAD need funds to carry out these other activities such as the purchase of vessels for the reserve fleet?

Based upon foreseeable demand, CDS funds remaining available for FY 1982 and those which are set aside for FY 1983 appear to be adequate for current ship construction contracts. Funds are not available in the CDS account for the purchase of vessels for the reserve fleet. There have been discussions with the Navy regarding the possibility of their funding such purchases in future years.

With no new CDS funds in 1982 and none requested in 1983, how many vessel operators have requested or planned to request to build, convert or modify vessels overseas?

Through March 1982 the following foreign reconstruction projects have been approved under Section 615 of the Merchant Marine Act, 1936:

- o American President Lines (conversion of three ships).
- o Delta Steamship Co. (conversion of six ships).
- o Phoenix Bulkship (conversion of two ships).

Five other vessel operators have requested approval to complete their ship construction or modification projects in foreign shipyards as follows:

- o First American Bulk Carrier (new construction of two combination bulk-containerships)
- o Ogden Marine (new construction of two bulk carriers)
- o Moore-McCormack Lines (minor conversion of two cargo/containerships)
- o Moore-McCormack Bulk Transport (retrofit of three 35,000 dwt tankers, to comply with the Port and Tanker Safety Act, 1978 (PTSA))
- o Margate Shipping Company (PTSA retrofit of two 35,000 dwt tankers).

In fiscal year 1983 additional shipowners may request approvals to be granted for ship construction programs if the requirements of Section 615 have been met with regard to CDS or an equivalent shipbuilding program. Lykes Bros. Steamship Co. is required to

replace certain of its vessels and United States Lines is currently planning a major containership building program.

What effect has this had on the shipbuilding industry?

The impact on the U.S. shipbuilding industry would depend on the magnitudes of contracts with foreign yards that would otherwise have gone to U.S. yards. In terms of existing applications, our estimates indicate that a project for conversion of Delta Lines ships would have required 1,200 man-years of domestic shipyard employment, while the American President Lines conversion effort and Phoenix Bulkship I and II projects would have 300 and 1,000 man-years, respectively. For four additional projects, for which the Maritime Administration has received applications for foreign construction (615 inquiries), the total effect on U.S. shipbuilding employment is estimated to be 1,950 man-years.

How much would this construction have cost the Government in CDS monies?

The three waivers for Delta, APL and Phoenix which have already been granted under Section 615, would have required in excess of $130 million in CDS funding if contract awards were made to U.S. shipbuilders. It is estimated that the four pending projects, which would have been offered CDS, plus one additional conversion for Phoenix Bulkship, would require at least an additional $105 million in CDS funds if the work were to be accomplished in the U.S.

The future plans of companies such as U.S. Lines and Lykes Bros. have not been sufficiently defined to enable the Maritime Administration to assess their CDS cost. Foreign press reports indicate, however, that U.S. Lines has requested cost proposals for up to fourteen very large containerships from foreign shipyards. While the U.S. construction cost is not known, it is recognized that containerships equal to or larger than those presently being constructed for American President Lines would each cost $40 to $50 million in CDS funds.

For National Security purposes how many private shipyards are needed?

Based upon a joint Navy/MARAD Mobilization Study done in 1978, shipyard capacity needed to meet mobilization requirements during the first 90 days of a major conventional war is estimated to be 83 building ways and 139 dry docks initially supported by 136,000 production employees. This capacity is now represented by 54 U.S. construction and repair yards, including the eight Naval yards. Of these 54 yards, 26 construction yards constitute what is referred to as the Active Shipbuilding Base.

Has the overseas construction and modification of U.S.-flag vessels lowered the shipyard mobilization base below what is needed for National Security?

While not directly relatable to overseas construction and modification, the dearth of both naval and commercial orders over the last few years has caused production employment in the 26-yard Active Shipbuilding Base to drop below the level considered consistent with mobilization readiness. Production employment in the Active Shipbuilding Base is about 74,000, about 90 percent of

the number judged necessary for mobilization. This level is expected to continue to decline, perhaps to a point as low as 70 percent of the requirement by late 1983 or early 1984, before these shipyards are able to begin work on the new naval vessels contemplated in the Administration's expanded Navy construction program.

Besides the Navy Shipbuilding Program, what else is the Administration or the Maritime Administration doing or considering to promote the shipbuilding industry in fiscal year 1983?

The Maritime Administration (MARAD) is exploring methods for promoting ship construction in U.S. shipyards through various alternative considerations in the development of the new Maritime Program which is expected to be promulgated in late spring.

In addition, MARAD is working to improve productivity in U.S. shipyards. Efforts in this area include research that will transfer more productive foreign shipbuilding technology to the U.S. MARAD is also conducting design studies of innovative ships that may serve national needs.

Ship Operations - Operating-differential Subsidies

Since wage costs are the major item of expense being subsidized, what has MARAD done to further reduce the manning levels on new U.S.-flag vessels?

Section 603 of the Merchant Marine Act, 1936 (as amended), states that the Government shall establish the subsidizable manning levels prior to the award of a contract to construct or reconstruct a vessel. This provision of the Act dates from 1970. The subsidizable crews of bulk vessels built since the 1970 amendment have varied from 16 to 26. For liners built since 1970, subsidizable crews have varied from 32 to 38. These are lower than comparable manning levels of vessels built prior to 1970. With respect to the proposed conversion of the El Paso LNG vessels to colliers under Section 615, MARAD has stipulated that if these vessels are ever to be operated with ODS, the subsidizable manning level will be 20. As new vessels have come under ODS contracts, the Maritime Administration has sought to reduce subsidizable manning to the lowest level consistent with safety and commercial needs.

Has MARAD pursued manning reductions below that currently authorized on older U.S.-flag vessels with operators, unions, and the Coast Guard?

Section 603 of the Merchant Marine Act, 1936, states that the Government shall establish the subsidizable manning levels prior to the award of a contract to construct or reconstruct a vessel. For vessels built prior to 1970, subsidized mannings were generally established at the time the vessels entered subsidized service. The approved manning complements were included in the operator's ODS contract. ODS contracts may be amended through mutual consent of the operators and the Government. However, unilateral actions cannot be taken by the Government. Review and renegotiation of manning levels, if appropriate, are undertaken when vessels are

reconstructed or when the rights to an ODS contract are purchased by another entity.

What actions can MARAD take to reduce the wage subsidy cost? Do these actions need the agreement of operators and/or unions?

The subsidizable manning levels and the eligible wage subsidy costs are enumerated in the operators' ODS contracts. Therefore, negotiations with the operators would be necessary to effect any change. Unilateral actions by the Government could not be taken. In addition, permanent changes in the eligible wage subsidy costs would require legislative action.

GAO's maritime subsidy report CED-82-2, dated November 30, 1981, mentions that MARAD does not have a good system to determine what is owed to the operators. What has MARAD done to improve its estimates of accruals?

MARAD estimates of operating subsidy accruals are good at both ends of the payment system, i.e. the initial budget estimates and the final payments at final subsidy rates. As the GAO report states, the time elapsed between current billings at tentative subsidy rates and the final billings averages three years. It is during this period that accuracy in the accrual estimates is lessened. It is difficult, at best, to predict insurance costs--protection and indemnity claims as well as hull and machinery costs. Claims for P&I costs can be made by seamen up to three years after the injury. Projections for these items are made on the basis of historical data.

To improve the estimates of these interim ODS accruals, the Agency has developed a format whereby the accruals and outlays can be monitored on a systematic basis. Costs will be adjusted during the year of operation as new information is received with respect to changes in operators, trade routes and services, foreign competition, exchange rates and with final subsidy rates as they are completed. The Agency is now reviewing the system to see if it can be formatted into a computer program.

Is the budget estimate of outlays for prior year accruals what is owed the operators? Does this increase in outlays for prior year accruals reflect GAO's recommendation that a process be adapted to speedup payment of monies owed to the operators? What is MARAD doing to improve the payment of monies owed?

The estimate reflects prior year amounts which MARAD predicts will be due and billed for final rate determinations during the budget year.

The increase in outlays for prior year accruals is due in large part to our expectation of making final payments on the 1979 rates and partial payments with respect to the 1980 subsidy rates. The General Accounting Office has recommended that tentative wage subsidy rates be revised to accelerate the final ODS payments to the operators. No funds were available for this purpose in FY 1981. Should funds become available in fiscal year 1982, the Maritime Subsidy Board will consider implementation of a system of revised tentative wage subsidy rates consistent with total ODS requirements. Meanwhile, the Agency is accelerating the production

of all final rates and the accomplishment of final audits to improve the payment of monies owed to the fullest extent possible.

GAO's report, CED-82-2, recommended that the Congress consider revising the laws concerning maintenance and repairs. If Congress changed the law, how would MARAD get the operators to revise their subsidy contracts to eliminate the maintenance and repair and the hull and machinery insurance expense?

How much subsidy could be saved annually if subsidy for these expense items were eliminated?

About how long would it take to realize this savings in the budget?

If Congress changed the laws, individual negotiations would have to be entered into in an attempt to eliminate the M&R and the hull and machinery (H&M) subsidy from current contracts. If these items of subsidy were eliminated for all operators, about $15 million dollars could be saved. The budget savings would be immediate once the contracts had been revised. However, litigation relative to revision could be protracted.

If subsidized operators were free to repair their vessels in foreign shipyards without penalty, there would presumably be little resistance to the elimination of the subsidy. However, under the 1930 Tariff Act, all American flag operators must pay a 50 percent duty on the cost of nonemergency repairs accomplished in foreign yards. In addition, operators who receive ODS for maintenance and repair must pay a penalty equal to the cost of the foreign repair when the repair is not an emergency. Even if operators were to retain their M&R and H&M subsidies, elimination of the penalty would induce some reduction in ODS requirements.

The U.S. Government through various direct and indirect subsidies has worked to promote the growth and prosperity of the U.S. maritime industry. Recently the need for continuing a subsidy program has been questioned. For example, it has been suggested to use subsidy contracts which would be awarded based on competitive bidding or the amount of cargo carried. Does the Administration have under consideration any plans to change the existing operating-differential subsidy program?

The Maritime Administration and the Department of Transportation are currently conducting a review of Maritime policy, and the operating subsidy program is one of the subjects of the review. It is expected that the results of this effort will be promulgated later this spring.

If the maritime regulatory revisions are enacted, will the profitability of the subsidized liner operators improve?

Could the Congress enact legislation that says because the Government has given the operators this new regulatory environment the subsidized liner operators are required to enter into ODS contract negotiations with MARAD to reduce the wage subsidy if and when they ever do make excess profits?

Restructuring the regulatory framework within which the ocean liner industry operates will reduce the restrictions on U.S.-flag and foreign-flag operators engaged in U.S. foreign trade. The

extent of this reduction will depend to some extent on what revisions are finally enacted. Profitability effects, if any, cannot be predicted, but it is to be expected that the revisions will be conducive to increased profitability.

In 1970, the Merchant Marine Act was amended to remove profit recapture provisions so that the operators would have the incentive to maximize competitiveness and profits. Since the impact of current U.S. regulations falls more heavily on U.S.-flag operators than on foreign-flag operators, the general effect of reducing the overall regulatory burden would be to increase the competitiveness of the American operator. Increased competitiveness could lead to profit increases. However, there would be no direct effect on the cost differential that is the basis of the operating subsidy.

Research and Development

Can MARAD demonstrate the cost effectiveness of its recent R&D activities?

MARAD has been able to get very high returns for its R&D investment. Cost-benefit studies have indicated a high return. This is accomplished by stressing the implementation of R&D results and the choice of projects that will benefit many U.S. companies.

Over 50 percent of our shipbuilding research is implemented within two years, and much of the remainder is implemented in succeeding years. At one participating shipyard, 83 percent of the project results have been implemented. A shipyard standards project has developed over a hundred cost-saving standards to date with an overall 15 to 1 return on investment. An industrial engineering project saved 90,000 labor hours in comparison to a duplicate ship built in the same yard five years earlier--this equates to a $1.8 million saving. A pipe shop at another yard that resulted from a MARAD study has reduced pipe fabrication labor hours by 50 percent, resulting in a $2 million savings per ship; this project also enabled the Navy to negotiate a $700 thousand reduction in the cost of a Naval ship being built in that yard.

A number of devices have been developed to cut fuel consumption. New fuel emulsifiers save 4 to 8 percent, and oxygen analyzers save 2 to 4 percent. Early tests of a speed-fuel monitoring system aboard a Lykes' ship found ways to cut fuel consumption by 4 percent by adjusting the ship's trim. And, current work on coal-firing is expected to ease the transition back to a fuel source which is in abundant supply.

Cargo Documentation costs have been cut by a system of electronic data interchange among carriers, shippers, and freight forwarders. A new type of propeller has been developed which eliminates damaging vibrations on high powered ships, and a system for bonding a cooper-nickel sheathing to a ship's underwater surfaces is being developed which could bring about a radical departure in hull coatings.

This near-term work has quick implementation and pay back, but equally important to cost savings is the longer term work on topics such as new ship types, structural analysis hydrodynamics, and

Arctic shipping. Here, cost effectiveness has to be measured by different scales. The results may not appear for ten years or more. Basic research is vital to the continued health of any industry that depends on technology.

Recognizing that the maritime industry is sharing in the decision on what research is done and the cost, are any of these R&D projects being directed at reducing the wage subsidy?

Most of MARAD's research projects are directed at improving productivity either in shipbuilding or ship operations with emphasis on the higher costs of fuel and capital. Various projects on ship control and automation also affect ship crew productivity. We have been working with both Labor and Management in these areas.

Besides the lower 48 States benefitting, it appears that the oil industry will benefit from this new Arctic shipping research. What is the breakdown of the cost sharing by the various parties in this effort?

The oil industry will benefit from the Arctic research, and they have been contributing to its funding through the Alaskan Oil and Gas Association (A.O.G.A.). Excluding the operating costs of the icebreakers, the costs of the first four phases of this project have been shared as follows:

Maritime Administration	$330,000
Coast Guard	620,475
State of Alaska	35,400
Transport Canada	258,000
Newport News Shipbuilding	5,000
A.O.G.A.	903,000

Merchant Marine Academy and State Marine Schools

What is the average starting salary for recent Kings Point and State marine school graduates?

The Merchant Marine Academy, Kings Point, and State marine school graduates generally receive the same employment and salary offers that other entry level merchant marine officers receive. Those graduates who obtain sailing berths during their first year usually have gross earnings from $25,000 to $35,000 per year depending on the amount of overtime worked.

Graduates who accept positions in maritime related areas ashore start at salaries ranging from $13,000 to $24,000 per year during their first year of employment.

Are all of these graduates finding employment?

Sixty-eight percent of the 1981 graduating classes found employment afloat, in maritime related ashore, or in the Navy or Coast Guard. This compares with 92 percent in 1979. Unless the current economic downturn is reversed, the Class of 1982 will have similar difficulty in finding maritime related employment.

Is it true that some State school cadets do not get stipends and have to pay tuition?

Approximately 71 percent of State marine students that are eligible receive student incentive payments. However, all State marine school students pay tuition. Section 1304(g)(1)(B) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1295c) states that the Government incentive payment to the individual is to be used to, ". . . assist the individual in paying the costs of uniforms, books, and subsistence. . . ."

How much could be saved if we eliminated the stipends to all State school cadets and Kings Point midshipmen?

$2.6 million is requested in the 1983 budget for student incentive payments to State marine school cadets. However, student incentive payments could only be eliminated over a four-year period. As authorized in Section 1304(g), Merchant Marine Act, 1936, as amended (46 U.S.C. 1295c), MARAD enters into agreements with individuals to provide student incentive payments for not to exceed four academic years. Therefore, MARAD could only avoid payments for individuals entering after a decision had been made to terminate payments. The freshman class enters during the fourth quarter of the Federal fiscal year (July - Sept.) and therefore only one to three months of subsidy are associated with the freshman class, depending on when each school begins its academic year. Accordingly, it is estimated that about $100,000 would be saved in the first year that the student incentive payment program was eliminated. Savings would then increase each year thereafter until all previously subsidized students were graduated and full savings of $2.6 million could then be realized.

There are no savings associated with Kings Point midshipmen in that they receive no direct stipends from the Government. The Government does provide all prescribed uniforms and textbooks and defrays costs of official travel as mandated by Section 1303(d) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1295b). The estimated cost of these items of expense is $1.4 million per year.

What would be the effect of initiating a tuition charge at Kings Point?

Institution of a tuition charge at the Merchant Marine Academy would alter the national character of the Academy by putting admissions on an ability to pay rather than on a geographic basis. It would probably result in a significant reduction in the pool of qualified applicants and thereby affect the quality of the appointees, especially potentially gifted applicants from the lower economic level. Tuition charges would adversely affect the Academy's current minority recruiting program.

How much of the money to Kings Point and the State marine schools is for training vessels?

The Maritime Administration has requested $7,468,000 in the 1983 budget for maintenance and repair of the five ships on loan to the State maritime academies, as authorized by Section 1304(c), Merchant Marine Act, 1936, as amended (46 U.S.C. 1295c). The Merchant Marine Academy budgets approximately $150,000 for operation and maintenance of the one small training craft at the Academy. The Academy vessel is not comparable to the State school ships.

Are these vessels costing excessive amounts because of their condition and age?

The costs of maintenance and repair of the training ships is consistent with their age and use and is not considered excessive due to the lack, at this time, of clearly cost beneficial alternatives to the use of these ships for training purposes. While the age of a training ship is certainly a factor in maintenance and repair requirements, inspection requirements of regulatory bodies as well as the maintenance programs of the individual schools also play significant roles. For example, the oldest ship, built in 1940, is the least costly to maintain and repair. Due to the use of these ships as training ships, regulatory bodies such as Coast Guard and the American Bureau of Shipping, are properly strict about compliance with new and existing environmental, safety and seaworthiness requirements. New environmental requirements such as marine sanitation systems and fuel oil fill and transfer system venting requirements are costly due to inherent extensive structural, material and equipment requirements but these systems would have to be retrofitted on any but the newest of ships.

Could we reduce these training vessel costs by letting the schools use Ready Reserve vessels?

There are no Ready Reserve Fleet (RRF) ships suitable for conducting at-sea training for State marine school students. RRF vessels are cargo vessels with limited accommodations, lifeboat capacity, and sanitary facilities for not more than 45 persons, while the maritime schools require accommodations and training facilities for 200-800 persons, depending upon the school.

Is it necessary for each school to have its own vessel?

Each school must provide a required amount of practical sea training and experience to its cadets as part of the school's curriculum. For the five schools in question, a training ship is the only assurance of this required capability. In addition, these schools also use their training ships as part of their practical laboratory training during the academic year. Individual training ships for each of these schools is the most effective method, from the States' viewpoint, of providing this element of Federal assistance. The alternative of sharing fewer training ships, which is conceptually feasible, requires major administrative, procedural and academic schedule changes at the schools.

Could we combine the use of training vessels?

Use of less than five ships for annual training voyages is conceptually feasible, and the concept of schoolship sharing has been examined.

From a ship scheduling standpoint, providing time for training cruises and for ship maintenance, the level of at-sea training presently afforded to State marine school midshipmen could be attained by using only two training ships. However, there are several other considerations beyond the substitution of two ships for five for at-sea training. A major vessel still would be desirable at each school to serve as a laboratory and classroom

training platform to supplement shoreside facilities. Provision would have to be made for transporting midshipmen and school training staffs to the training ships or for moving the ships to the respective schools for embarkation for training cruises, and the schools would have to make changes in academic schedules to accommodate training ship sharing. It would be imperative that permanent nucleus crews be maintained aboard shared ships to provide for continuity of operations, develop requirements for maintenance and repairs, provide orientation prior to cruises to user school staff in the operation and use of the ship, and provide oversight supervision during cruises for safety of operations especially in the engineering department.

Federal Ship Financing Program

As a result of the Seatrain Lines bankruptcy, has the Title XI revolving fund had any losses?

The Maritime Administration has suffered no losses against the Title XI revolving fund with respect to Seatrain Lines. Disbursement of approximately $16 million to pay off the guarantee relating to two barges that were under construction at Seatrain's shipyard was made in prior years from the Title XI revolving fund. One barge has been scrapped and the construction of the second has recently been completed. The entire investment in this project is expected to be recovered upon the sale of this barge and its related tug.

Is MARAD projecting any losses because of the financial condition of some liner operators?

No, MARAD is not projecting losses because of the financial condition of some liner operators. While the financial positions of several liner operators have justified the approval of some advances by the Maritime Administration, we are expecting those financial positions to improve. If the financial positions of the companies deteriorate, it would be possible that some loss might be incurred by the Title XI program if the Title XI debt financing on the liner vessels defaulted. Recoveries made on the disposition of the mortgaged vessels which are security for Title XI debt would serve as an offset to the pay off on such debt.

How much of the Title XI authority is committed to vessels participating in off-shore U.S. oil exploration, production, and servicing?

As of September 30, 1981, MARAD had Title XI authority in excess of $1.4 billion outstanding or committed against 243 drill rigs or drill service vessels.

Would these vessels have been built in the U.S. without Title XI?

It is believed that a significant number of these vessels would have been built in foreign shipyards if Title XI were not available due to the subsidized financing available from foreign governments. Competitive private financing is generally not available to independent operators of these vessels in the United States on the terms and conditions necessary to make their U.S. construction as favorable as foreign construction.

Since MARAD is proposing to limit the amount of new financing available to $600,000,000 what type of criteria will be developed to assure that vessels which are more important for national defense will have financing available?

MARAD has instituted a priority system which recognizes the differing national defense utility of the various maritime segments. Our highest priority is given to those vessels capable of supporting a defense posture overseas. Generally, oceangoing vessels of all types will have a priority for the limited amount of Title XI authority with a lower priority given to those inland vessels providing an essential commercial service. Presently, drilling vessels and their support craft receive the lowest priority. No LNG vessels will be financed.

War Risk Insurance Program

Are the administrative costs of the war risk insurance program being recovered from the binder fees and insurance premiums and not from the interest on U.S. investments? It appears from the budget that the program has or is expecting some insurance claims. What are the circumstances and facts about this?

Administrative costs of the program are paid from both binder fees and premiums and interest on U.S. investments.

No claims have been paid during the past five years, and there are no claims pending. However, the Maritime Administration has included a modest estimate in the budget to reflect the potential for claims as a contingency item.

Operations

With the transfer of MARAD to Transportation from Commerce has any reorganization within DOT or Coast Guard made savings available to those agencies? Has the transfer made any savings available to MARAD? What was the cost of the transfer and what are the initial savings?

The Maritime Administration is not aware of any reorganization within the Department of Transportation or the Coast Guard as a result of the transfer of the Maritime Administration from the Department of Commerce to the Department of Transportation. No savings to MARAD have resulted from the move from the Department of Commerce to the Department of Transportation.

The estimated cost of the transfer of the Maritime Administration from the Department of Commerce to the Department of Transportation is $269,000 in FY 1981 and an estimated $600,000 in 1982.

With the cutback in CDS funding has MARAD been able to save any administrative cost in this area?

The Maritime Administration has reduced administrative costs of the CDS program somewhat in 1981 and 1982. In general, savings have been applied to increased personnel costs resulting from annual pay raises. A considerable amount of CDS work remains under contract.

SUBCOMMITTEE RECESS

Senator WEICKER. The subcommittee will recess until 9 a.m. tomorrow morning when we will receive testimony from nondepartmental witnesses.

[Whereupon, at 11:10 a.m., Wednesday, April 21, the subcommittee was recessed, to reconvene at 9 a.m., Thursday, April 22.]

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